

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 1203 OF 2021

Mansoor Ali Shabbir Mohammed ... Applicant
Versus
The State of Maharashtra ... Respondent

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Mr. Shyamrishi R. Pathak, Advocate for the applicant.
Mr. A. R. Kapadnis, APP for the Respondent – State.
Mr. Dilip S. Pawar, (P.I.), Aarey Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 23rd MARCH, 2021

PER COURT:

1. The applicant was arrested on 10th October, 2020 in connection with C.R. No. 586 of 2020 registered with Aarey Police Station, Mumbai for offences under Sections, 376, 376(2)(n), 328, 506, 506 (2), 363 & 366 of Indian Penal Code and Sections 4, 8 & 12 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') and Section 66(E) of the Information Technology Act.

2. The FIR was lodged on 9th October, 2020 by the victim, who was aged about 21 years. According to the victim/complainant, in 2016, she was interested in joining the pilot training course. She read the advertisement and contacted customer care centre of the concern which was conducting pilot training course. The applicant was employee of said concern, spoke to her. She was informed that

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the amount of Rs.17 Lakhs will have to be incurred for training. The applicant contacted the victim in May, 2016 and told her that he would like to meet her. He would reduce the fees for course. The victim then visited office of the complainant. In June, 2016, she was contacted by the applicant. The applicant met her near the college of victim. She was taken to his office. She was offered cold drink. After consuming it, she felt dizziness. The accused established physical relationship with her. Thereafter, about 10-12 times the victim was subjected to physical relationship in the office of the applicant. On 8th December, 2016, the applicant brought Moulana in the office and performed forced marriage with the complainant. Thereafter, on several occasions, the applicant had physical relationship with him. In 2017 they had visited the hotel and on 4 to 5 occasions had sexual relationship. In 2018, the applicant gave call to her and told her that they should visit Bandra Court for registration of marriage. She was threatened. Thereafter, on several occasions the victim was blackmailed and the accused had established physical relationship with her. She was taken to hotels. On 6th October, 2020, the applicant/accused uploaded photographs of his marriage with the complainant on the Facebook account. Thereafter, the FIR was registered.

3. Learned counsel for the applicant submitted that the relationship was consensual. The marriage was performed between the complainant and the applicant when she had attained majority which is evident from the marriage certificate and statement of Moulana. It is submitted that photographs of the marriage are also on record. He also submitted the Insurance Policy of the applicant, the complainant was made as nominee.

4. Learned APP submitted that at the time of first incident, the victim aged about 16 years and she was minor. The marriage was performed under coercion. The victim was subjected to sexual relationship under coercion.

5. From the tenor of the FIR it is apparent that, on several occasions there was physical relationship between the complainant and applicant. During the course of investigation, the hotel premises where allegedly the complainant and the applicant had physical relationship was visited by the Police. However, the statement of the manager of the hotel was recorded who had stated that they had not visited the said hotel. Victim was allegedly minor at that time. Another statement of the hotel manager was recorded where the applicant and the complainant had allegedly visited and there was physical relationship. The said witnesses have stated that they had

visited their hotels. At that time the victim was major. Considering the submissions of learned counsel for the applicant and the documents on record, further detention of the applicant is not necessary. Hence, I pass the following order:

ORDER

- (i) Criminal Bail Application No.1203 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. 586 of 2020 registered with Aarey Police Station, Mumbai on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station once in three months on first Saturday of the month between 11:00 a.m. to 1:00 p.m. till further order;
- (iv) The applicant shall not approach the complainant/victim or any other witnesses and shall not tamper with the evidence.
- (v) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- (vi) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)