

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

ANTICIPATORY BAIL APPLICATION NO.813 OF 2022

Nasir Abu Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Shadab Khopekar i/b. Mr. S.A. Nadar for the Applicant.

Mr. S.H. Yadav, APP for Respondent-State.

Mr. Yusuf Khan for the Intervenor.

Mr. Raghunath H. Kadam, PI, Oshiwara Police Station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 28th MARCH, 2022.

P.C.:-

1. Learned counsel for the Applicant seeks leave to implead the victim as party Respondent No.2. Leave is granted. Cause title be amended forthwith.

2. Mr. Yusuf Khan, learned counsel waives service on behalf of Respondent No.2.

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This is an application under Section 438 of Cr.P.C, filed by the Applicant apprehending his arrest in Crime No.101 of 2022 registered with Oshiwara Police Station for the offences punishable under Sections

354, 504 and 509 r/w. 34 of the IPC and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).

4. Heard Mr. Shadab Khopekar, learned counsel for the Applicant, Mr. S.H. Yadav, learned APP for Respondent No.1-State and Mr. Yusuf Khan, learned counsel for Respondent No.2.

5. The aforesaid crime against the Applicant was registered pursuant to the FIR lodged by Respondent No.2-victim. A perusal of the FIR prima facie reveals that a civil dispute is pending between the Applicant and the father of the victim. It is stated that on 19/01/2022 at about 19.30 hours on the ground near Matoshri Chawal, son of the Applicant abused her in filthy words and held her hand and later the Applicant came and touched her chest and pushed her. It is stated that the Applicant also abused the victim in filthy words.

6. The FIR is lodged on 16/02/2022 while the incident had occurred on 19/01/2022. It is also on record that there is a civil dispute pending between the Applicant and the father of the victim and that the relationship between them is strained. The grievance of the victim appears to be that the Applicant had touched her chest while pushing her.

Considering the delay in lodging the FIR, previous rivalry as well as the nature of accusations and material in support thereof, in my considered view this is not a case which would justify custodial interrogation.

7. Hence, the application is allowed on following terms and conditions:-

- (i) In the event of arrest of the Applicant in Crime No.101 of 2022 registered with Oshiwara Police Station, the Applicant shall be released on executing PR bonds in the sum of Rs.30,000/- with one or two solvent sureties to the like amount.
- (ii) The Applicant shall report to the investigating officer for a period of four days from 04/04/2022 between 11.00 a.m. to 2.00 p.m. and thereafter as and when required by the investigating officer.
- (iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact number, and/or change of residence or mobile details, if any, from time to time.

(iv) The Applicant shall not interfere with the victim, witnesses and /or tamper with the evidence in any manner.

8. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)