

Urmila Ingale

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

ANTICIPATORY BAIL APPLICATION NO.996 OF 2022

Mubashshara Khan ..Applicant
vs.
State of Maharashtra ..Respondent

Mr.Ayub Khan i/b Mr. Yusuf B. Khan, for applicant.
Ms. Aafreen Khan, for Intervener.
Mr.N.B. Patil, APP for respondent-State.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 30, 2022

P.C. :

- 1.** Heard learned counsel for the applicant.
- 2.** The applicant is seeking pre-arrest bail in respect of FIR No. 0110/2020 (C.R.No. 80 of 2022) dated 18/02/2022 registered with Oshiwara Police Station, Mumbai for the offence punishable under sections 354, 509, 504, 506, 323, 34 of the Indian Penal Code, 1860 ("IPC", for short) read with sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.
- 3.** The applicant is the wife of Hanif Khan. The

complainant had earlier married Hanif, but later on Hanif and the complainant divorced. Pursuant to the divorce, Hanif married the applicant on 10/06/2019. The applicant is the mother of a daughter aged one and half years. The victim is the son of the complainant and Hanif. It is alleged that when the victim, who was 12 years 10 months, had come to visit the residence of Hanif and the applicant, the applicant touched him inappropriately on 04/02/2022 and also asked him to touch her inappropriately.

4. On record is the judgment dated 04/12/2021 in respect of a matter which was proceeded pursuant to the complaint of the complainant before the Court of Additional Judicial Magistrate, Pratapgad (Registrar) against Hanif for the offence punishable under section 498A of the IPC. Hanif was acquitted of the charges.

5. From the statement of the complainant, it is seen that the relations between the complainant on one side and the applicant and Hanif on the other side are strained. Despite her divorce in March 2019 and the acquittal of Hanif in the case registered against him under section 498A on

04/12/2021, the complainant visited along with the victim to the place where the applicant and her husband were residing. Though the alleged incident happened on 04/02/2022, the complaint is filed only on 18/02/2022. There is an unexplained delay.

6. Learned counsel for the intervener invited my attention to the statement of the complainant and submitted that the allegations are very serious in nature.

7. Taking into consideration the overall circumstances, having regard to the nature of the allegations made, the delay in lodging the complaint, matrimonial dispute between Hanif and complainant, the strained relations between the parties, the applicant deserves to be granted pre-arrest bail. I find that the custodial interrogation is also not necessary in the present case. Hence, the following order.

ORDER

(a) In the event of arrest of the applicant in connection with C.R. No. 80 of 2022 registered with Oshiwara Police Station, the applicant-

Mubashshara Khan be released on bail on her furnishing P.R. Bond in the sum of Rs.15,000/- with one or more sureties in the like amount;

(b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence;

(c) The applicant shall not threaten or influence the victim or establish any contact with him;

(d) The applicant shall furnish her contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

(e) The applicant to report to the Investigating Officer as and when called.

8. The anticipatory bail application is disposed of.

(M. S. KARNIK, J.)