

PMB

Digitally
signed by
PRADNYA
MAKARAND
BHOGALE
Date:
2022.11.23
19:56:00
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1115 OF 2022**

ASIF CHOUDHARI S/O SHAFIQUE
CHAUDHARY

..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR.

..RESPONDENTS

Mr. Shubham Singh for applicant.

Mr. Sandeep B. Satkar for respondent no.2.

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

Mr. Jagadish Deshmukh, PI, Sahar Police Station.

CORAM : M. S. KARNIK, J.

DATE : NOVEMBER 23, 2022.

P.C. :

1. Heard learned counsel for the parties.
2. This is an application for pre-arrest bail in respect of the offence punishable under Sections 376(2)(n) of the Indian Penal Code, 1860 and under Sections 4, 8, 12 of the Protection of Children From Sexual Offences Act, 2012 in connection with C.R. No.85 of 2022 registered with Sahar Police Station.
3. A reference needs to be made to the orders dated 13/07/2022, 25/07/2022 and 05/09/2022 passed by this Court.

4. The order dated 13/07/2022 reads thus :-

"1. The victim girl, who is aged 20 years, is present in the court and has tendered an affidavit sworn by her on 12/07/2022. She has deposed that the FIR was registered on account of some misunderstanding and there was a love affair between her and the applicant, but upon the pressure mounted on her by the family members, she has registered the FIR. She has made a categorical statement that the two are in love with each other. However, on account of different religion, the alliance was not acceptable to the family. The said affidavit is taken on record and marked 'X' for identification.

2. Let learned counsel for the applicant take instructions from his client, whether he is ready to perform the marriage with the complainant.

3. List the application on 25/07/2022.

4. The complainant is represented by Mr. Sandeep Satkar, advocate, who seeks permission to file his vakalatnama.

5. Permission granted. Vakalatnama be filed on or before the next date."

5. The order dated 25/07/2022 reads thus :-

"1. The applicant has placed on record an affidavit sworn on 27/05/2022 wherein he makes the following statement :-

"That we are in deep love of each other however due to difference in religion, situation got problematic however I am willing to marry to respondent no.2 as per her convenience."

2. The learned counsel states that the applicant shall solemnize the marriage with the complainant within a period of one month from today. The affidavit is taken on record and also the statement of the learned counsel on behalf of the applicant to the above effect is recorded. In the wake of the above, the applicant deserve interim protection. Hence, the following order.

: ORDER :

(a) In the event of arrest in connection with C.R. No.85 of 2022 registered with Sahar Police Station, applicant-Asif Choudhari s/o Shafique Chaudhary shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(b) The applicant shall report to the concerned police station as and when called for.

(c) 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.

3. Re-notify to 05/09/2022."

6. The order dated 05/09/2022 reads thus :-

"1] In terms of the order dated 25.07.2022, learned counsel for the Applicant makes a statement that the Applicant was ready and willing to perform marriage with the complainant, who is aged about 20 years as on date.

It is informed that she has taken by her parents to their village and, therefore, the marriage cannot be performed. He has placed on record certain chats exchanged by her with the Applicant, which record that she has been imposed with severe threatening and constraints.

2] Let the complainant remain present in this Court on the next date of hearing alongwith some elderly member of her family, so that correct situation can be verified.

List on 21.09.2022.

Interim protection to continue till next date.”

7. In terms of the order dated 05/09/2022, the complainant is present in the Court. The complainant says that an affidavit has been filed by her on 12/07/2022 stating that she agrees to what is stated in the affidavit. There is an affidavit dated 25/07/2022 filed by the applicant. The affidavits are already on record. The applicant as well as the complainant agree to what is stated in the affidavits and submit that they will abide by what is stated thereunder. The informant is now 20 years of age.

8. In this view of the matter, the custodial interrogation of the applicant is not necessary. The interim protection granted by this Court on 25/07/2022 deserves to be confirmed on the following terms :-

(a) In the event of arrest in connection with C.R. No.85 of 2022 registered with Sahar Police Station, applicant-Asif Choudhari s/o Shafique Chaudhary shall

be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

(b) The applicant shall report to the concerned police station as and when called for.

(c) 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.

9. Anticipatory Bail Application is disposed of.

(M. S. KARNIK, J.)