

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

ANTICIPATORY BAIL APPLICATION NO.1456 OF 2022

Kunal s/o Sanjay Shinde	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

Mr. Niteen V. Gaware, for the Applicant.
Mr. N. B. Patil, APP for the Respondent/State.
Ms. Janhavi Karnik, for the Intervenor.
Ms. Snehal Sandip Charapale, PSI, Shirur Police Station - present.
Mr. Sureshkumar N. Raut, Senior Pl, Shirur Police Station - present.

CORAM : NITIN W. SAMBRE, J.

DATE : 15th SEPTEMBER, 2022

P.C.

1. Applicant is seeking pre-arrest bail in Crime No.251 of 2022 registered with Shirur Police Station, District Pune for the offence punishable under Sections 354, 354D, 342, 323, 504, 506 r/w 34 of IPC & Sections 8 & 12 of POCSO Act.
2. This Court on 13th September, 2022 has already granted ad-interim protection in the matter.
3. The case of the prosecution is, the applicant assaulted the victim in the afternoon of 8th April, 2022 resulting into registration of offence under Sections 8 and

12 of POCSO Act, so also Sections 354D and 354 of IPC.

4. Contentions of counsel for the applicant are, there exists dispute in relation to landed property and as such, applicant is falsely implicated. He would claim that there is delay in filing FIR. Apart from the above, his contentions are, considering the nature of allegations, custodial interrogation cannot be justified particularly when the applicant aged about 22 years is a student and will suffer in his future life, if the prayer is not granted.

5. Learned APP assisted by counsel for the non-applicant No.2/victim would urge that there is enough material on record to infer *prima-facie* involvement of the applicant in crime in question. Attention of this Court is invited to the statement recorded under Section 161 of the CrPC of the victim, so also the mother. Learned APP would further urge that since the parties are residing adjacent, there will be persistent threat and that being so, the application be rejected.

6. I have appreciated the submissions.

7. In response to the Court's query, learned APP on instructions from the Investigating Officer informs that immediate steps will be taken for recording statement of the victim under Section 164 of CrPC which is accepted.

8. It is worth to note here that after the incident occurred in the afternoon of 8th April, 2022, the victim girl kept mum till next day morning. It is only on 9th April, 2022 morning she has narrated the incident to her mother, instead of lodging complaint immediately the mother has lodged complaint at night at 10.46 p.m.. There is unexplained delay in the matter of lodging of complaint.

9. Apart from the above, allegations which are levelled do not warrant custodial interrogation of the applicant who has no criminal antecedent.

10. In that view of the matter, in my opinion, case for confirmation of ad-interim protection is made out.

11. In the event of arrest, applicant is directed to be released on bail on furnishing PR bond of Rs.15,000/- with one or more sureties in the like amount.

12. Applicant shall neither influence the witnesses in any manner nor tamper with the evidence.

13. Applicant shall attend the Investigating Officer from 26th September, 2022 to 29th September, 2022 between 10.00 to 12.00 noon and thereafter as and when directed.

14. Till the charge is framed, applicant shall remain outside the jurisdiction village.

15. In compliance with the last order passed by this Court, Senior Police Inspector, so also Investigating Officer are personally present in the Court.

16. Learned APP on instructions from the Senior Police Inspector informs that already corrective measures are taken so that timely instructions provided to the APP appearing in the matter pertaining to the said Police Station.

17. Learned APP on instructions from the Senior Police Inspector assures that there shall not be further default in the matter in relation to the said Police Station.

18. In view of aforesaid assurance and apology tendered by the Senior Police Inspector, order of saddling cost of Rs.25,000/- is recalled.

[NITIN W. SAMBRE, J.]