

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2893 OF 2022

Sheshmani Shitlaprasad Yadav .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Jigar K. Agarwal with Mr.Vinod C. Singh for the Applicant.
Mr.H.J.Dedhia, A.P.P. for the State/Respondent.
PSI S.D.Patil, attached to Shivaji Nagar Police Station, present.

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CORAM: BHARATI DANGRE, J.
DATED : 17th OCTOBER, 2022

P.C:-

1. The applicant is an Advocate by profession and he apprehends his arrest in C.R.No.951 of 2022, registered with Shivajinagar Police Station, on a complaint filed by the mother of a young girl, aged 17 years 3 months, who alleged that the accused named in the complaint has abducted her daughter and confined her. She informed the police that her date of birth is 25/05/2005 and she was introduced with accused No.1 and they were in love with each other. It is alleged that the said accused, on the pretext that the marriage is to be

solemnized, called her minor daughter and on 08/09/2022, tied the nuptial knot. For some day after the marriage, she was kept with a lady named in the F.I.R. and when the mother inquired, the girl is alleged to have stated that he had kissed her. This resulted in invocation of Sections 363, 366-A, 465, 466, 471 read with Section 34 of I.P.C., Sections 8 and 12 of the POCSO Act and Sections 9 and 10 of the Prohibition of Child Marriage Act, 2006.

It is informed that the accused against whom the allegations were levelled is already released on bail by the learned Special Judge on 27/09/2022 by recording that the statement of the victim girl reveals that her marriage was performed with the accused as per Muslim rites and the aspect of her minority can be determined at the stage of trial.

2. The statement of the victim girl, recorded on 14/09/2022, is produced before me, who has categorically admitted that she is aged 17 years 3 months and she also admits that she had already performed marriage with her lover on 08/09/2022. She does not make any allegation of accused establishing physical relationship with her.

3. In this whole scenario, the applicant is arraigned as an accused, as it is alleged that an affidavit filed by the victim girl

giving her willingness about she converting her religion, is prepared by the applicant and though the applicant never came in picture, it is alleged that another Advocate, who identified the victim girl and brought before him, revealed that the affidavit was prepared by the applicant. When asked, learned A.P.P. states that the said Advocate, who identified the girl before the Notary, is not made an accused, but on the basis of the statement of the said Advocate, the applicant is arraigned as an accused. The allegation levelled against him is that, he has prepared the affidavit, where the date of birth is recorded as 05/03/2004. An Aadhar Card is also recovered , where the same date of birth is recorded. When asked, whether the Aadhar Card is also forged by the applicant, learned A.P.P. is unable to respond.

The photo-copy of the Aadhar Card, is recovered during the course of investigation and the original which is produced before the Kazi, who performed the Nikahnama, is yet to be seized.

4. There is no basis for the accusation that the Aadhar Card is also forged by the present applicant. It is quite possible that the accused in the said offence and the victim girl, who were desirous of getting married despite knowing that she was

minor, had themselves procured it. The victim girl has also not stated that Aadhar Card is prepared by the present applicant. In the aforesaid circumstances, when the main accused is released on bail on the ground that the victim girl has performed marriage with him, I do not think that the applicant deserve to be detained. As the investigation is limited to a particular aspect, where the Investigating Officer would like to know on what basis the affidavit was drafted and whether he was the author of the affidavit, let the applicant report to the Investigating Officer.

Hence, the following order.

: ORDER :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.951 of 2022, registered with Shivajinagar Police Station, applicant-Sheshmani Shitlaprasad Yadav shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall report to the concerned police station on Wednesday and Thursday for a period of two weeks between 3.00 p.m. to 5.00 p.m. and, thereafter, as and when called for.

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

(SMT. BHARATI DANGRE, J.)