

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3098 OF 2022

Sikander Adam Shaikh ... Applicant

Versus

State of Maharashtra ... Respondent

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Mr. Arun Mishra for the Applicant.

Mr. A.R. Kapadnis, APP for the State.

Mr. S.S. Bandgar, PC, MIDC Police Station, Raigad, present.

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CORAM : N.R. BORKAR, J.

DATED : 21 NOVEMBER 2022

P.C. :-

1. This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No. 117 of 2022 registered at M.I.D.C. Police Station, Raigad for the offence punishable under Sections 313, 308 r/w. 34 of Indian Penal Code.

3. The complainant is the wife of accused No.1 in the present crime. According to the prosecution, as the complainant and accused No.1 were having two daughters, the accused No.1 made the complainant to undergo sex determination test of foetus in the hospital of one Dr. Barkat

when she became pregnant. It is alleged that the accused No.1 then compelled the complainant to terminate the pregnancy.

4. I have heard the learned Counsel for the applicant and the learned APP for the State.

5. The learned Counsel for the applicant submits that the applicant is not Dr. Barkat. It is submitted that the prosecution is trying to implicate him in crime in question with some ulterior motive. It is thus submitted that the applicant may be released on anticipatory bail.

6. On the other hand, the learned APP for the State submits that there is material to show that the applicant is recognized as Dr. Barkat. It is further submitted that before the present incident, the applicant was prosecuted for the similar offence. It is submitted that considering the nature of offence, the applicant may not be released on anticipatory bail.

7. Admittedly, after the registration of crime, the house of the present applicant was searched. However, nothing incriminating was found in the said search. Apart from it, in the statement of the complainant recorded under Section 164 of the Cr.P.C., there is no reference of alleged sex determination of foetus at the hospital of Dr. Barkat. The alleged medical termination of pregnancy was conducted in the hospital of co-accused Dr. Kendre. As regards earlier crime, the prosecution itself has filed 'A' summary. Considering these facts and circumstances, I am inclined to grant anticipatory bail to the present

applicant. In the result, the following order is passed :

- (i) Application is allowed.
- (ii) In the event of arrest, the applicant - Sikander Adam Shaikh in Crime No. 117 of 2022 registered at M.I.D.C. Police Station, Raigad for the offence punishable under Sections 313, 308 r/w. 34 of Indian Penal Code, he shall be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicants shall attend the concerned police station on 28th to 30th November 2022 between 11.00 a.m. to 2.00 p.m. and thereafter, as and when called by the Investigating Officer and shall co-operate in the investigation.

(N.R. BORKAR, J.)

KANCHAN
PRASHANT
DHURI

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2022.11.23
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