

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.186 OF 2023

Abid Papu Shah	..Applicant
Vs.	
The State of Maharashtra	
and ors.	..Respondents

Mr.Joyeb Shaikh, Advocate for applicant
Mr.G.O.Wattamwar, APP for respondent nos.1 and 3
Ms.Ashwini Lomte, Advocate for respondent no.2

**CORAM : R.G. AVACHAT, J.
DATE : MARCH 16, 2023**

ORDER :-

Heard.

2. The applicant claims to have apprehension of arrest in connection with Crime No.1128 of 2022 registered with Shrirampur City Police Station, Tq. Shrirampur, Dist. Ahmednagar, for the offences punishable under Sections 354 and 354-A of Indian Penal Code, Sections 8 and 12 of the Protection of Children from Sexual Offences Act and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The FIR has been lodged by the informant/victim herself on 08.12.2022. At the relevant time, she was little over 17 years of age.

The averments in the FIR indicate that the informant was emotionally involved with the applicant. Both of them went together to a secluded place. She even put on *Burkha* so as to conceal her identity.

4. It is informed by learned counsel for the applicant that it is only when her brother came to know about the relationship, the informant turned hostile.

5. There is substance in the contention of learned counsel for the applicant, since he has placed on record exchange of text messages on WhatsApp between the two. The applicant is alleged to have caught hold of hand of the informant and expressed his desire by saying 'he likes her'. The exchange of the text messages between the two suggest that it was consensual relationship and the averments in the FIR might not be correct. If this is so, bar of Section 18 the of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, may not come in the way, although learned counsel for the informant would submit that in view of the same, the application for grant of anticipatory bail is not maintainable.

6. Observations made herein above are *prima facie* in nature. The trial Court shall not be influenced thereby,

7. Considering the nature of the alleged offence and the fact that both applicant and informant have been emotionally involved with each other and furthermore, the applicant being around 21 years of age, the application is allowed. The order dated 08.03.2023, granting him interim protection, is hereby made absolute, on the same conditions. The applicant shall not trouble the informant.

8. Fee of learned counsel appointed to represent respondent no.2 is quantified at Rs.6,000/- (Rupees Six Thousand).

[R.G. AVACHAT, J.]

KBP