

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

BAIL APPLICATION NO.1549 OF 2023

**HEENA RASHID PATHAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Mr. Y. B. Pathan, Advocate for the Applicant.
Mr. S. B. Narwade, APP for Respondents-State.
Mr. Nitin S. Salunke, Advocate for Respondent No.2.
Mr. Satish S. Gaikwad, Advocate for Respondent No.2 (appointed through Legal Aid).

...

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 20th OCTOBER, 2023.**

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.822/2023 registered with Rahuri Police Station, District Ahmednagar for the offences punishable under Sections 354, 354-D, 109 r/w 34 of the Indian Penal Code and Sections 8, 12 of the POCSO Act, 2012.

2. The investigation was set in motion on the basis of the information given by the victim. She alleges that in the year 2021 while she was taking education in 8th standard, she was attending the private tuition with the applicant, who is a Teacher of Mathematics and English. There were many other students in the class. It is alleged that, while such classes were going on some boys, who were relatives of the applicant were either sitting in the class room or waiting outside the class. It is alleged that the applicant was insisting girl students to speak in Hindi and also instigating them to have conversation with the Muslim girls and boys. She further alleges that the applicant instigated the

informant to have conversation with accused Awej Shaikh. Further part of the FIR is relating to the conduct of the accused Awej Shaikh and relationship developed by him with the informant. In that part of the FIR there is nothing to constitute anything against the applicant. On the basis of such information, Crime No.822/2023 came to be registered against in all 8 accused persons including the applicant. The applicant has been arrested on 27.07.2023. Since then, she is behind the bar.

3. Mr. Pathan, learned Advocate appearing for the applicant would submit that the applicant has been falsely implicated in the aforesaid crime. So far as the offences invoked against rest of accused, the applicant has no concerned. All the allegations are unconcerned with the applicant. The role attributed against the applicant does not constitute any offence. Hence, he urges to release the applicant on bail.

4. The learned APP as well as the learned Advocate appearing for the informant strongly oppose the prayer. They would submit that the conduct of the applicant shows her involvement in the crime. They would submit that the applicant is part of the big conspiracy hatched by the accused persons. There are similar offences registered against the applicant and others. The release of the applicant may give rise to recurrence of similar offence.

5. Having considered the submissions advanced, it appears that the applicant is a Teacher and taking classes of Mathematics and English subjects for the students studying in the 8th and 9th standard. The informant and other students were availing her services and attending the classes. Some allegations are made against the applicant that she instigated the girl

students to have conversation with the boys, who were unconcerned with the class. However, based on such attribution, it is difficult to bring home guilt against the applicant for the offences under Sections 354, 354-D of the Indian Penal Code and Sections 8 and 12 of the POCSO Act. The allegations constituting aforesaid offences are against the co-accused persons. The investigation in the matter is already completed. During the pendency of this application, charge-sheet is filed, which is placed on record of this Court. Even on perusal of the material in the charge-sheet, except aforesaid allegations incorporated in the contents of the FIR, no other material can be seen to bring complicity of the applicant. In that view of the matter, further detention of the applicant would not be necessary. Hence, case is made out for grant of bail. It is made clear that, the aforesaid observations are based on *prima facie* consideration of the record only for the purpose of disposal of this application and shall not be used while considering the bail plea of any other accused. Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant, Heena Rashid Pathan be released on bail in Crime No.822/2023 registered with Rahuri Police Station, Dist. Ahmednagar for the offences punishable under Sections 354, 354-D, 109 r/w 34 of the Indian Penal Code and Sections 8, 12 of the POCSO Act, 2012 on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand only) each on following condition:
 - a. The applicant shall not tamper with the prosecution evidence in any manner.
 - b. The applicant shall attend each and every effective date before the Sessions Court.

c. The applicant shall not indulged herself in similar offence.

(iii) Application is disposed of.

(iv) Since Mr. Satish S. Gaikwad, learned advocate appearing for respondent no.2 is appointed through the Legal Aid Panel, the Secretary, High Court Legal Services Sub-Committee, Aurangabad Bench do pay the fees of the appointed counsel for respondent no.2/victim as per schedule.

(S. G. CHAPALGAONKAR)
JUDGE