

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

931 BAIL APPLICATION NO.1717 OF 2023

MOHAMMAD SHOAIB MOHAMMAD SAJID
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Nilesh S. Ghanekar
APP for the Respondents – State : Mr. K. S. Patil
...

CORAM : S. G. CHAPALGAONKAR, J.

DATE : 13.10.2023

PER COURT :-

1. Applicant seeks Regular Bail in connection with Crime No.0331 of 2023 registered with Police Station Kopargaon, District Ahmednagar, dated 12.07.2023 for offence punishable under Sections 376, 363, 354, 328, 295, 295-A, 298, 504, 506 read with Section 34 of the Indian Penal Code.
2. The investigation was set in motion on the basis of information given by the victim aged about 20 years. She alleges that the accused Sayam had developed relations with her in social media / networking. They were consistently in touch with each other. In the year 2021 accused Sayam made a trap of love affair with her. He used to visit the place of the victim. However, on 21.05.2023, the accused had been to Kopargaon along with his companions. They insisted victim to accompany them to the Madarsa at village Khadki. The accused persons outraged her modesty. It is further alleged that the accused

Sayam had forcible sexual intercourse with her, snapped photographs and videographed her in the company with him. It is further alleged that the accused Sayam took her to another Maulana and forcibly got uttered the religious prayer for converting to Islam and insisted her to follow the Islamic rituals. Based on such allegations, the Crime No. 331/2023 came to be registered against the accused persons for the aforesaid offences. The applicant has been arrested in pursuance of the aforesaid crime on 17.07.2023. The investigation progressed and charge-sheet has been filed against all the five accused, including the applicant.

3. Mr. Ghanekar, learned Advocate appearing for the applicant would submit that the role attributed against the applicant does not attract any of the graver offences charged against accused No.1 or even his companion. He would invite attention of this Court to the victim's statement recorded under Section 164 of the Cr.P.C., wherein she alleges that the Maulana asked her to read Nikah Nama and completed the rituals of the marriage. According to her, all these activities were against her will. It is further alleged that the Maulana forcibly asked her to follow ritual required for converting her to Islam.

4. Mr. Ghanekar, learned Advocate would submit that the aforesaid allegations are absent in previous version or initial narration appearing in the F.I.R. The applicant has played his normal role as a 'Maulavi' without knowing the other factual aspects regarding the

relationship between accused No.1 and the victim. He would further submit that the investigation in the matter is completed. Charge-sheet is filed. The applicant is behind bar for more than three months. The further detention of the applicant would not be necessary.

5. The learned APP opposes the prayer. He submits that the offences are serious in nature. A tender aged girl was trapped under the pretext of love affair and the conversion of the religion was given effect and applicant has played an important role.

6. Having considered submissions advanced, it appears that the relationship between the applicant and accused No.1, began in the year 2019 through social media / networking and in the year 2023 it reached upto the marriage. Subsequently, she realised to have been trapped. The perusal of the contents of F.I.R. do not specify the role of the applicant. It cannot be inferred that any force was exerted by the applicant in the process of alleged conversion to Islam. So far as the graver offences under Sections 376, 363 of the Indian Penal Code are concerned, the applicant cannot be attributed with any role. The investigation in the matter is complete. The charge-sheet is filed. The further detention of the applicant would not be necessary. Hence, case is made out for grant of bail subject to certain conditions. Hence order :

ORDER

(i) The Bail application is allowed.

(ii) Applicant – Mohammad Shoaib s/o Mohammad Sajid, be released on bail on furnishing P.B. and S.B. of Rs. 50,000/- (Rupees Fifty Thousand only), in Crime No. 0331 of 2023 registered with Police Station Kopargaon, District Ahmednagar, dated 12.07.2023 for offence punishable under Sections 376, 363, 354, 328, 295, 295-A, 298, 504, 506 read with Section 34 of the Indian Penal Code., on the following conditions :-

- (a) He shall not tamper with the prosecution evidence in any manner.
- (b) The applicant shall not to establish the contact with any witness named in the charge-sheet.
- (c) The applicant shall furnish his contact details and residential proof to the police station and shall update the same.
- (d) He shall attend each and every effective date of hearing before the trial Court.
- (e) The applicant shall furnish address and contact numbers of two local persons of his acquaintance and also update the details as and when necessary.
- (f) Applicant shall not indulge in criminal activity similar to allegation against him in this case.

(iii) Application stands disposed off accordingly.

(S. G. CHAPALGAONKAR)
JUDGE

shp/-