

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

BAIL APPLICATION NO.2113 OF 2022

**SHAIKH FAIZAN SHAIKH IQBAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Applicant : Mr. Pathan Hamzakhan I.

APP for Respondent/State : Mr. K.S. Patil

Advocate for Respondent No.2 : Ms. Jayshri P Reddy (Appointed)

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CORAM : S.G. MEHARE, J.

DATED : JANUARY 20, 2023

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel appointed for the respondent no.2/victim.

2. The allegations of forceful sex have been made against the applicant. However, the statement of the victim under Section 164 of the Criminal Procedure Code reveals that she had a love affair with the applicant. The prosecution has no evidence that on the day of the alleged incident, the victim left her home at his instance. On the contrary, the victim was planning to go away with her maternal sister and they demanded him money for travelling. That time, he told them her mother is going to lodge a complaint against him; hence, they returned and stayed with him over night. But there were no allegations that he has committed any forceful sex with her.

Overall facts reveal that the victim on her own left her mother's home as she was scolding her for the reason that she learnt that the victim has an affair with the applicant.

3. In view of that matter, it would be inappropriate to keep the applicant behind bar. Hence, the following order :

ORDER

(i) Bail Application is allowed.

(ii) The applicant, Shaikh Faizan Shaikh Iqbal, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with Crime No.333 of 2022, registered at Nanalpeth Police Station, District Parbhani for the offence punishable under Section 363, 366, 376, 376(2)(N), 376(a)(b) of the Indian Penal Code and Section 4 and 12 of the Protection of Children From Sexual Offences Act, 2012 on the conditions that;

(a) The applicant shall not tamper with the prosecution witnesses.

(b) The applicant shall not contact the victim in any mode or manner, till conclusion of the trial.

(c) He shall not enter the Khandoba Bazar Area, Parbhani where the victim and her parents resides, till conclusion of the trial.

(3)

(iii) The Secretary, High Court Legal Services Sub-Committee, Aurangabad Bench do pay the fees to the counsel appointed for respondent no.2 as per schedule.

(S.G. MEHARE, J.)