

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.817 OF 2023

Ajay Masa Borade

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Ashok B. Tajane for the Applicant.

Mr. S.V. Gavand, APP for Respondent-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th MARCH, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.PC. filed by the aforesaid Applicant for pre-arrest bail apprehending his arrest in C.R. No. 932 of 2022 registered with Sadar Bazar police station, Solapur, for the offences punishable under Section 354-A of the IPC and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).

2. Mr. Tajane, learned counsel for the Applicant states that there is considerable delay in lodging the complaint. He further states that the complaint is malafide and filed mainly due to previous dispute between the Applicant and the Complainant herein. He further

submits that he does not know the nature of dispute between the parties. He further submits that the Applicant is ready to co-operate with the investigation and that the mobile allegedly given by the Applicant to the victim is already in possession of the Complainant and that nothing more remains to be recovered. He submits that this would be a case, which would not justify custodial interrogation.

3. Per contra, Mr. Gavand, learned APP submits that the Applicant is a married man with children. The FIR prima facie reveals that the Applicant has outraged modesty of a minor girl and subjected her to sexual harassment under a pretext of marriage.

4. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The aforesaid crime was registered pursuant to the FIR lodged by the father of the victim. The records indicate that the victim is a young girl of 15 years of age. She is a student of 9th standard. The FIR prima facie reveals that in the month of April-2022 the victim had told her mother that the Applicant had come to her school and given her chocolates and other eatables and told her that she was pretty. He

took her to a factory premises in the MIDC area and kissed her under the promise of marriage. The parents of the victim had questioned the Applicant about the said incident, upon which his parents tendered apology and requested not to lodge a complaint and assured them that such incident would not be repeated. FIR was not lodged in view of the assurance given by the parents of the Applicant.

6. The Complainant has stated that on 30/12/2022, the teacher of the victim called him in the school and told that his daughter had a mobile and she was constantly chatting with someone on her phone while in school. When he enquired with his daughter she informed him that the Applicant had given her a mobile phone. The Applicant had told her that he wanted to marry her. The Complainant has stated that the Applicant had sent several messages and had also threatened to slit his wrist with a blade.

7. The material on record prima facie reveals that the Applicant, who is a married man with children had lured the victim, a minor girl, who is barely 15 years of age under a false promise of marriage. The material on record further indicates that the Applicant had also taken the minor girl by his rikshaw to an isolated place and

had kissed her and sexually harassed her. The contention of the learned counsel for the Applicant that the Applicant has been falsely implicated, deserves to be rejected outright in view of the fact that the learned Advocate is himself unable to state the nature of dispute between the Applicant and the Complainant. The investigation is still at preliminary stage. The offence of child abuse is of serious nature. The delay in lodging the FIR in such crime is not relevant at this stage.

8. Under such circumstances, the Applicant is not entitled for pre-arrest bail. Hence, the application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)