

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.933 OF 2023

Aman Altaf Mujawar	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

Mr. Balwant Salunkhe for the applicant.

Mr. P.H. Gaikwad, APP for the respondent No.1/State.

Mr. Kartik Garg appointed advocate for the respondent No.2.

Mr. Chetan N. Mane, API, Islampur Police Station, Sangli is present

CORAM : AMIT BORKAR, J.

DATED : JUNE 13, 2023

P.C.:

1. The applicant has filed present application under section 438 of the Criminal Procedure Code, 1973 in connection with C.R. No.158 of 2023 dated 7th March 2023 registered with the Islampur Police Station for the offences punishable under sections 354D and section 34 of the Indian Penal Code, 1860 and sections 12 and 17 of the Protection of Children from Sexual Offences Act, 2012 seeking pre-arrest bail.

2. On 7th March 2023, mother of the victim filed complaint with the police station concerned, alleging that initially Crime bearing

No.740 of 2022 was registered against the applicant for offences under sections 376(2)(N), 354(A)(1), 354(D) and 506 of the Indian Penal Code, 1860 and sections 4,6, 12 of the Protections of Children from Sexual Offences Act, 2012. The applicant was released on bail subject to conditions mentioned in the order. Despite such conditions, the victim's mother learnt that the victim had called the applicant through social media application i.e. Instagram. The victim told the applicant that her family members intend to marry her against her wish. Moreover her mother is forcing her to marry against her wish. Mother, therefore, lodged a report contending that the applicant tried to contact the victim with an intention to follow her.

3. The applicant, therefore, filed an application under section 438 of the Criminal Procedure Code, 1973, which has been rejected by order dated 20th March 2023.

4. Learned advocate for the applicant submitted that the report itself indicates that the victim herself had called the applicant and the applicant is no way responsible contacting the applicant.

5. Per contra, learned APP for the State submitted that establishing contact with the victim is in breach of bail conditions imposed by the competent Court while releasing the applicant on the earlier occasion. Therefore, the applicant has antecedent which dis-entitles him from seeking relief from this Court.

6. Having perused the first information report, statement of the victim under section 164 and case diary, it prima facie appears that the victim herself had contacted the applicant through a social

media application. The material on record as of today does not indicate that the applicant contacted the victim on his own. In case there is violation of bail condition imposed by the competent Court in connection with earlier offence, it is for the appropriate parties to adopt appropriate course as is permissible in law. However, considering the facts of the case and more particularly version of the victim's mother that the victim had contacted the applicant, the applicant has made out a case for grant of relief. Hence, following order:

- a) In the event of arrest of the applicant in connection with C.R. No.158 of 2023 dated 7th March 2023 registered with the Islampur Police Station for the offences punishable under sections 354D and section 34 of the Indian Penal Code, 1860 and sections 12 and 17 of the Protection of Children from Sexual Offences Act, 2012, The applicant shall be released on executing PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- b) The applicant shall remain present before the investigating officer on 19th, 21st and 23rd June 2023 between 11:00 a.m. to 02:00 p.m. and, thereafter, as and when called by the investigating officer;
- c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
- d) The applicant shall not obstruct or hamper the police

investigation and not to play mischief with the evidence collected or yet to be collected by the police;

7. The anticipatory bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)