



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

BAIL APPLICATION NO.336 OF 2023

SHAFIQUE MUSTAQEEM AHMAD SHAIKH ..APPLICANT

VS.

THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Shafqat Ali Shaikh for the applicant.

Mr. N. B. Patil, APP for the State.

PSI S.M. Kamble, Sion Police Station.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 14, 2023.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 376(2)(n) and 417 of the Indian Penal Code registered on 10/02/2022 vide C.R. No.21 of 2022 with Sion Police Station, Mumbai.

3. The applicant was arrested on 17/03/2022. The applicant and the prosecutrix were at relevant time 22 and 21 years of age respectively. It is the accusation that the applicant developed friendly relations with the prosecutrix

and proposed marriage. Thereafter, the parties had consensual physical relations. It is the case of the prosecutrix that the physical relations were on the promise of marriage which later turned out to be false. The prosecutrix became pregnant. Thereafter, when the prosecutrix tried to contact the applicant on his mobile phone, it was switched off.

4. From the accusations made out, the possibility of consensual physical relations can not be ruled out. Whether the promise of marriage was false since inception is a subject matter of trial and the applicant shall face the consequences if he is found guilty. The matter as it stands, *prima facie*, it appears that the prosecutrix and the applicant were in a consensual physical relationship.

5. Learned APP while opposing the application states that the applicant is from Uttar Pradesh and there is a possibility that he may evade the trial. It is further submitted that the DNA report is still awaited and therefore, hearing of this application may be deferred.

6. There is nothing on record to indicate that the

applicant has any criminal antecedent. Considering that the applicant has been in custody since 17/03/2022 i.e. for a period of more than 1 year and 5 months and as the investigation is complete and the charge sheet has been filed, in the facts and circumstances of the present case further custody of the applicant is not required, the applicant can be enlarged on bail by imposing strict conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Shafique Mustaqueem Ahmad Shaikh in connection with C.R. No.21 of 2022 registered with Sion Police Station shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Sion police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall not leave the State of Maharashtra without prior permission of the trial Court.

(h) The applicant shall attend the trial regularly.

7. The application is disposed of.

(M. S. KARNIK, J.)