



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

BAIL APPLICATION NO.439 OF 2023

FAWAD ISMAIL SUBHEDAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

**WITH
BAIL APPLICATION NO.1185 OF 2023**

1. RESHMA NAVED SHAIKH
2. SHAHID AHMED SHAIKH ..APPLICANTS
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

**WITH
BAIL APPLICATION NO.1448 OF 2023**

1. HEENA HANIF SHAIKH
2. NOORJAN HABIB GHACHI
3. ARIFA JAMIR PATHAN ..APPLICANTS
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Nitin H. Sejpai a/w Mrs. Pooja N. Sejpai and Ms. Akshata B . Desai for the applicant in BA/439/2023.
Mr. Gaurav Parkar a/w Mr. Shantanu Kadam a/w Ms. Diksha Patil for the applicants in BA/1185/2023 and BA/1448/2023.
Ms. Vilasini Balasubramanian for Respondent No.2.
Ms. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 24, 2023.

P.C. :

- 1.** Heard learned counsel for the applicants, learned APP for the State and learned counsel for respondent No.2.
- 2.** Since the applications are arising out of the common C.R. the same are disposed of by a common order.
- 3.** Learned counsel for the applicants on instructions seeks leave to withdraw the bail application on behalf of applicant No.3 - Arifa Jamir Pathan with liberty to apply afresh for bail after three months. The bail application on behalf of applicant No.3-Arifa Jamir Pathan is allowed to be withdrawn with liberty as prayed for and disposed of accordingly.
- 4.** These are applications for bail in respect of the offence punishable under Sections 363, 366, 366-A, 370, 376, 376(3), 120-B read with 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 registered vide C.R. No.144 of 2022 with Shrivardhan Police Station.

5. The FIR was lodged on 30.10.2022. The applicant-Fawad Ismail Subhedar is the accused No.1. The applicant-Reshma Naved Shaikh is the accused No.6. The applicant-Heena Hanif Shaikh is the accused No.2. The applicant-Noorjan Habib Ghachi is the accused No.3.

6. The applications are opposed by learned APP and learned counsel for respondent No.2 appointed through Legal Aid.

7. The victim is 17 years old. The victim's mother was in search of some employment for the victim. The accused Arifa Jamir Pathan was known to the victim's father. The victim was taken to Mangaon for the purpose of employment. While at Mangaon the victim asked the accused about the nature of the employment.

8. I have perused the statement of the victim recorded on 10.11.2022 under Section 164 of the Code of Criminal Procedure. The co-accused Heena Hanif Shaikh and Arifa Jamir Pathan informed the victim that she has to marry the co-accused Wahid Habib Ghachi. The victim resisted the same and said that she came for the purpose of

employment. It is the allegation of the complainant that this is a case of forced religious conversion and forced marriage. The victim was forced to marry the co-accused Wahid on 02.11.2022. On the basis of missing complaint lodged by the victim's parents, the victim was handed over to her parents.

9. So far as the applicant-Fawad Ismail Subhedar is concerned, the role assigned to him that he is a rickshaw driver who dropped the victim at Mangaon. A reading of Section 164 statement reveals that the main allegations are against Arifa and Wahid. The applicants were present at the time when the marriage was performed. The applicants in Bail Application No.1185 of 2023 and Bail Application No.1148 of 2023 are women. One set of accused were arrested on 05.11.2022 and another set of accused were arrested on 13.12.2022. There are no criminal antecedents reported against the applicants. The investigation is complete and the charge-sheet has been filed. The applicants do not appear to be a flight risk. The applicants-Fawad Ismail Subhedar, Reshma Naved Shaikh, Heena Hanif

Shaikh and Noorjan Habib Ghachi are enlarged on bail.

Hence, the following order :-

ORDER

(a) The applications are allowed.

(b) The applicants-Fawad Ismail Subhedar, Reshma Naved Shaikh, Heena Hanif Shaikh and Noorjan Habib Ghachi in connection with C.R. No.144 of 2022 registered with Shrivardhan Police Station shall be released on bail on their furnishing P.R. Bond of Rs.25,000/- each with one or more sureties in the like amount.

(c) The applicants are permitted to furnish cash bail surety in the sum of Rs.25,000/- each for a period of 4 weeks in lieu of surety.

(d) The applicants shall report to the Shrivardhan Police Station once in two months i.e. on first Monday of every alternate month between 11.00 a.m. and 1.00 p.m. commencing from September 2023.

(e) The applicants 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 applicants shall not tamper with evidence.

(f) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicants shall not contact the victim, witnesses or any person concerned with the case.

(h) Any such attempt will be viewed seriously.

10. The applications are disposed of.

11. I express my gratitude for the able assistance rendered by the advocate-Ms. Vilasini Balasubramanian representing the respondent No.2.

12. The Legal Services Authority may regularize the appointment of Ms. Vilasini Balasubramanian.

(M. S. KARNIK, J.)