

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

BAIL APPLICATION NO.4273/2021

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IRFAN MOHD. RASHID SHAIKH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Anjali Patil i/b. Adv. Mallika Sharma for the applicant.

Mr. S. H. Yadav, APP for State.

Adv. Sushan Mhatre for the respondent no.2-complainant.

PI Rasal, RCF Police Station.

PSI Patil, RCF Police Station.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 31, 2023.

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the respondent no.2-complainant.

2. This is an application for bail in respect of the offence punishable under Sections 377, 506(2) of the Indian Penal Code (hereafter 'IPC' for short) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereafter "POCSO Act", for short), registered vide First Information Report (FIR) No.35/2021 with RCF Police Station.

3. The incident took place on January 22, 2021, between

8.00 p.m. to 9.00 p.m. The complaint is lodged by the mother of the victim. The victim was 12 years of age on the date of the incident. It is alleged that the applicant, who is 21 years of age, was working as a cleaner on the truck which was parked near the public toilet. The complainant in her statement stated that the act has been committed by the cleaner of the tanker. When the victim informed the complainant about the incident, she went in search of the tanker and from the owner of the tanker she gathered details of the cleaner. The owner informed the complainant that the name of the cleaner is Irfan Mohd. Rashid Shaikh, that is, the present applicant. Thereafter, the applicant came to be arrested.

4. My attention is invited to the statement of the victim recorded on January 27, 2021 wherein he stated that one person committed the aforesaid offence in the cabin of the tanker.

5. The applicant was arrested on January 23, 2021 and is now in custody for more than two years. The charge has not been framed so far and the trial is not likely to commence anytime in the near future. The investigation is complete.

The charge-sheet has been filed. The applicant is 21 years of age. No test identification parade has been conducted. There are no criminal antecedents reported against the applicant. Hence the following order.

ORDER

- (a) The application is allowed.
- (b) The applicant-Irfan Mohd. Rashid Shaikh in connection with FIR No.35/2021 with the RCF Police Station, shall be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount.
- (c) The applicant be released on provisional cash bail of Rs.15,000/- for a period of six weeks from today.
- (d) The applicant shall report to the Investigating Officer of the concerned police station once in a month on 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) Learned counsel for the applicant makes a statement that the applicant will not enter the area where the victim is residing, that is the jurisdiction of the RCF Police Station, till the trial is concluded. Statement is accepted.

6. The application is disposed of.

7. I appreciate the assistance rendered by Mr. Sushan Mhatre, the learned Advocate, who appeared on behalf of the respondent no.2-complainant.

(M. S. KARNIK, J.)