

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

BAIL APPLICATION NO.3010 OF 2022

Sufiyan Shakil Shaikh	...Applicant
vs.	
The State of Maharashtra & Anr.	...Respondents

Ms. Mallika Sharma i/b Ms. Anjali Patil for the Applicant.
Mr. S. R. Agarkar APP for the Respondent - State.
Mr. Viral Mukte for Respondent No.2.
Mr. Santosh Tapase, API, Shantinagar police station present.

CORAM : S. M. MODAK, J.

DATED : 9TH AUGUST 2023

P. C. :

1. Heard learned Advocate for the Applicant, learned APP to the Respondent-State and learned Advocate for the first informant-mother of the victim.
2. Though there is no intervention application, learned Advocate for the first informant has filed the Vakalatnama in the office. Let it be tagged to this proceedings.
3. The mother of the victim has filed an affidavit thereby consenting for grant of bail to the Applicant.

4. The present Applicant-Sufiyan is son of one Nafisa Moinuddin Shaikh, whereas the victim is daughter of Fareeda Bano Shakil Shaikh. The name of the father of the Applicant is Shakil Shaikh. The victim's mother and said Nafisa are real sisters. As such the victim and Applicant are related to each other. She was ravished by the Applicant in the month of October 2020 on one Sunday at about 7 pm. When she had gone for attending nature's call, one Shamsher Chachu took her to the house and ravished her. She had pain in abdomen on 12th April 2021. She told her mother and when taken to doctor, sonography was recommended and performed on 13th April 2021, and it revealed that she was carrying five months pregnancy. Thereafter, she lodged complaint against one Shamsher Chachu. During investigation, it was disclosed that it is not Shamsher Chachu but present Applicant, who has ravished her. Accordingly, the Applicant was arrested.

5. My attention is invited to the statement of doctor on page 64. The doctor advised mother of the victim to inform the police. It is true that the DNA examination is positive. I am granting

bail for the reason that he is also 18 years old. He has undertaken not to stay at address mentioned in the FIR.

6. Let that undertaking be furnished before the concerned Court at the time of furnishing of bail. The trial has not started. The Applicant is behind bar since 2021. One does not know when the trial will start. Even though, the allegations are serious, the age is in favour of the Applicant. Hence, the following order :-

ORDER

- (i) Bail application is allowed.
- (ii) Applicant-Sufiyan Shakil Shaikh arrested in connection with C.R. No.222 of 2021, registered with the Shanti Nagar police station, Thane for the offence punishable under Sections 376(3), 342, 506(2) of Indian Penal Code and Section 4 of the POCSO Act, be released on furnishing Personal Bond and Surety Bond in sum of Rs.25,000/-.
- (iii) Applicant shall not threaten the prosecution witnesses.
- (iv) Applicant to cooperate with police as and when required.
- (v) Applicant to furnish an undertaking that he will not stay at the address mentioned in the charge-sheet till conclusion of the trial. Bail should not be accepted

without furnishing that undertaking.

(vi) Applicant is directed to give alternate address of residence to the police.

(vii) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail, after notice to the Applicant.

7. Bail application is disposed of in the aforesaid terms.

8. It is made clear that these are my *prima-facie* observations.

9. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]