

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3647 OF 2022**

1. Rajiya w/o Wasim Shaikh
 2. Rehana w/o Badshad Shaikh
 3. Ajaz s/o Badshah Shaikh
 4. Fija w/o Ajaz Shaikh
- ...Applicants

Versus

The State of Maharashtra and anr. ...Respondents

.....

Mr. Nitin Patil for the Applicant.
Mr. Amit Palkar, APP for the State.
Mr. Aamey Kadkade i/b Mr. Sachin Kanse a/w Mr. Ranjeet Nair and
Mr. Sanjeev Punalikar for Respondent No. 2.

.....

CORAM : N.R. BORKAR, J.
DATED : 9 FEBRUARY 2023

P.C. :-

This is an application under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicants are apprehending their arrest in Crime No. 610 of 2022 registered at Daund Police Station, Pune Rural for the offences punishable under Sections 376, 109, 504, 506 r/w 34 of Indian Penal Code and Sections 3 r/w 25 of Arms Act.

3. I have heard the learned counsel for the applicants and the learned APP for the respondent-State.

4. According to the prosecutrix, she was doing the business of selling ladies clothes. The applicant No. 1 used to come to her house to purchase the clothes from her and therefore they got acquainted with each other. According to her, she also sometimes used to go to the house of the applicant No. 1. It is alleged that the husband of the applicant No. 1, who is accused in the crime developed liking for the prosecutrix and the applicant No. 1 disclosed this fact to the prosecutrix.

5. It is alleged that, on 19 November 2021, the applicant No. 1 had called the prosecutrix to her house and offered some soft drink. According to the prosecutrix, she drunk the said soft drink after which, she started feeling sleepiness. It is alleged that in that state of sleepiness, she was forcibly made to marry the co-accused Wasim Shaikh. It is alleged that said co-accused thereafter forcibly committed sexual intercourse with her. It is further alleged that co-accused- Wasim Shaikh told her that he had done video recording of their sexual act. According to the prosecutrix, the said co-accused Wasim thereafter on various occasions forcibly committed sexual intercourse with her by threatening her that if she refuses then he would post the video of their sexual act on social media.

6. The applicants are relatives of the co-accused. Allegations against them are of abetment.

7. The learned counsel for the applicants submits that the prosecution has already filed the charge-sheet against the present applicants. The learned APP has not disputed the said fact.

8. Prima facie, the alleged act of sexual intercourse appears to be consensual. Considering these facts, I am inclined to release the applicants on anticipatory bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) In the event of arrest of Applicant No. 1- Rajiya Wasim Shaikh, Applicant No. 2- Rehana Badshad Shaikh, Applicant No. 3- Ajaz Badshah Shaikh and Applicant No. 4- Fija Ajaz Shaikh in Crime No. 610 of 2022 registered at Daund Police Station, Pune Rural for the offences punishable under Sections 376, 109, 504, 506 r/w 34 of Indian Penal Code and Sections 3 r/w 25 of Arms Act, they shall be released on bail on furnishing PR bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount.

(N.R. BORKAR, J.)