



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 819 OF 2024

SHAIKH SARWAR SHAIKH PASHA
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicant : Mr. Sudarshan J. Salunke
APP for Respondents No.1 and 2 : Ms. D. S. Jape
Advocate for Respondent No.3 : Ms. Asha N. Gore
(Appointed Through Legal Aid)
...

CORAM : S. G. MEHARE, J.

DATE : 26-06-2024

PER COURT :-

1. Heard the learned counsel for the applicant, learned A.P.P. for respondents No.1 and 2 and learned counsel for respondent No.3.
2. The applicant seeks bail in C.R.No.66 of 2024 registered with Police Station Nanalpeth, Parbhani, District Parbhani, for the offences punishable under Sections 354, 354A, 294, 504 and 506 of the Indian Penal Code, Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, subsequently added Section 376AB of the Indian Penal Code and Section 4 of the POCSO Act.
3. The first information report was delayed by two days, simply making allegations of kissing and pressing chest. However, after around four days, suddenly story has been developed making the offence serious amounting to forcible sexual assault. The statement of the victim was also recorded belatedly where she has

improved her statement materially. The reason for delay may be explained before the trial Court. The victim refused to undergo medical examination. Belated statement of the victim raises doubt about the veracity of the allegations. Possibility of tutoring the victim cannot be ruled out. The applicant is languishing in jail since 06.02.2024.

4. Considering the improved statements of the victim as well as the witnesses, the Court is of the view that bail deserves to be granted. Hence, the order :-

ORDER

- i) The application is allowed.
- ii) Applicant Shaikh Sarwar Shaikh Pasha be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
 - (a) He shall stay away from Parbhani town for three months from the date of his release, with a leave to attend the dates of trial.
 - (b) He shall not contact the witnesses and the victim in any mode or manner till conclusion of the trial.
 - (c) He shall attend the trial on each and every effective date.
- iii) The observations are *prima facie* for the purpose of bail only.
- iv) The Secretary, High Court Legal Services Sub-Committee, Aurangabad, do pay the fees to the learned counsel appointed for respondent No.2/victim, as per the schedule.

(S. G. MEHARE, J.)