

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

ANTICIPATORY BAIL APPLICATION NO.742 OF 2024

Altaf Babulal Shaikh Applicant
Versus
The State of Maharashtra and another Respondents

Mr. M.S. Mulla, Advocate for the Applicant.

Mr. Nitin B. Patil, APP for the Respondent-State.

Ms. Priyanka H. Chavan, Advocate (appointed) for the
Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 27th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.732/2023 registered at Sadar Bazar Police Station, Solapur City on 13.11.2023 under sections 354, 354-D, 341, 504, 506 read with 34 of IPC, Section 12 of the Protection of Children from Sexual Offences Act and Section 3(1)(w)(i), 3(1)(w)(ii), 3(2)(va), 3(1)(r), 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. Heard Mr. M.S. Mulla, learned counsel for the Applicant, Mr. Nitin Patil, learned APP for the Respondent-State and Ms. Priyanka Chavan, learned appointed counsel for the Respondent No.2.

3. The FIR is lodged by the mother of the victim. According to her, the victim was 14 years of age. On 3.11.2023 at around 4.00 p.m., the informant's daughter called her and told her that the Applicant and his son had chased her and had taken their two wheeler dangerously close to her. The informant pacified her and encouraged her to attend her tuition classes. On 5.11.2023 allegedly the Applicant went to the informant's husband's workplace with 4-5 boys and pointed towards the informant. It is alleged that the Applicant and his son abused the informant and threatened him. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the allegations are not true. The Applicant's daughter has lodged her own FIR against the informant's husband in the night between 13th and 14th November, 2023 at the same

police station vide C.R. No.733/2023 under Section 354-B, 354-D, 452, 504, 506 of IPC and under Sections 8 & 12 of the POCSO Act. He submitted that since the informant's husband had committed the offence of outraging the modesty of the Applicant's daughter and has been committing such offences since the Applicant's daughter was below 18 years of age, to protect themselves this particular FIR vide C.R. No.732/2023 is lodged against the Applicant. He further submitted that the charge-sheet in the present case against the present Applicant is already filed. There is no necessity of the Applicant's custodial interrogation. He produced a copy of the charge-sheet filed in this case. It is taken on record and marked 'X collectively' for identification. He referred to the statement of the informant's daughter recorded under Section 164 of Cr.PC. He submitted that the said statement does not indicate that the Applicant has committed such offence.

5. Learned APP submitted that the charge-sheet in this case is already filed and the investigating agency does not need the Applicant's custody for custodial interrogation. The

Applicant is formally arrested and is released on bail during the period of his ad-interim protection.

6. Learned counsel for the first informant submitted that in case protection is granted to the Applicant, suitable conditions be imposed on him so that the victim and her family are sufficiently protected . On merits, she submitted that the offence is made out.

7. I have considered these submissions. As mentioned earlier, there are allegations and counter allegations. Therefore, there is a possibility that both the parties are not telling the complete truth before the police. The statement of the informant's daughter recorded under Section 164 of Cr.PC. mentions that the Applicant and his son have taken their two-wheeler dangerously close to the victim and they used to roam around in that area. This supplementary statement shows that there is a possibility that the victim may have misunderstood that the Applicant came towards her. As submitted by learned counsel for the Applicant, he is resident of the same area and,

therefore, it was necessary for him to go to his workplace and other places on his two-wheeler.

8. There is a strong possibility that the victim could have exaggerated or could have misunderstood that the Applicant had deliberately driven his two wheeler dangerously. Apart from that there is a counter FIR lodged by the Applicant's daughter wherein she had made allegations against the informant's husband. The investigation in this case is already completed. The charge-sheet is already filed. There is a possibility that both the families are either exaggerating the incident or not telling the complete truth. The alleged incident narrated by the informant had taken place on 5.11.2023 and yet she had lodged her FIR on 13.11.2023. That delay has also remained unexplained. Therefore, I am inclined to give benefit to the Applicant in this case. At the same time, it is necessary to impose certain conditions so that the victim and her family are not harassed. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.732/2023 registered at Sadar Bazar Police Station, Solapur City, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station once a fortnight for a period of six months from today.
- (iii) The Applicant shall not cause any harassment to the victim, the informant and their family.
- (iv) These observations are made in the context of passing this order.
- (v) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
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