



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

ANTICIPATORY BAIL APPLICATION NO. 3066 OF 2023

TAHER S/O HASAN BINKARDUS

..APPLICANT

VS.

STATE OF MAHARASHTRA

..RESPONDENT

Mr. Nitesh Mohite, for the applicant.

Mr. S. A. Karmakar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : MARCH 26, 2024

P.C. :

1. Heard learned counsel for the applicant and learned APP.
2. This is an application for pre-arrest bail in respect of the offence punishable under sections 363, 366, 504, 506 read with 34 of the Indian Penal Code, 1860 registered on 20/02/2023 vide C.R. No. 97 of 2023 with Akluj police station.
3. It is alleged by the complainant that the present applicant and others kidnapped the sister of the complainant. The victim at the relevant time was 20 years of age. The accusation against the applicant is that he was a driver of the car in which the victim was taken. The prime

accused Zuber Mujamil Sayyad is alleged to have enticed the complainant's sister on the promise of marriage. This Court on 11/10/2023 while enlarging the prime accused Sayyad Zubair Mujamil on regular bail had observed thus :

"2. This is an application for bail in respect of the offence punishable under Sections 363, 366, 504, 506 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 20/2/2023 vide C.R. No.97/2023 with Akulj Police Station, Taluka-Malshiras, District Solapur (Rural).

3. The applicant is the accused no.1. On 15/2/2023, a missing complaint was filed by the informant about his sister. It is alleged that the accused nos.2 and 3 on the say of the applicant/accused no.1 had taken the informant's sister with a view to marry her in a Swift Dzire Car owned by the accused no.2. The accused nos. 2 and 3 dropped the informant's sister on 15/2/2023 at her friend's house residing at Akurdi, Pune.

4. Learned APP opposed the application for bail.

5. I have gone through the statements of the victim as well as her friend 'S'. The applicant at the relevant time was 21 years of age. Learned counsel for the applicant submitted that there was a love affair between the applicant and the victim. Prima facie, there appears to be some substance in the submission of learned counsel for the applicant. The applicant is in custody from 20/2/2023, almost for a period of seven months with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk."

4. The accusation therefore against the applicant is that

it is the applicant who dropped the complainant's sister on 15/02/2023 at her friends house who was residing at Aakurdi, Pune at the behest of the prime accused.

5. Learned APP opposed the application.

6. In my opinion, in view of the accusations against the applicant and in the facts and circumstances of the present case, the custodial interrogation of the applicant is not required. Apart from this, having regard to the role of the applicant and as the accusations are mainly against the prime accused – Sayyed Zubair Mujamil and also having regard to the observations of this Court in the order dated 11/10/2023, I am inclined to allow this application. Hence, the following order :-

ORDER

(a) The application for pre-arrest bail is allowed.

(b) In the event of arrest of the applicant – Taher s/o Hasan Binkardus in connection with C.R. No.97 of 2023 registered with Akuj police station, the applicant shall be released on bail on his furnishing P.R. Bond of Rs.10,000/- with one or more sureties in the like amount.

(c) The applicant shall report to the investigating officer of Akuj police station on 02/04/2024 and 03/04/2024

between 11.00 a.m. and 1.00 p.m. and thereafter as and when called.

(d) 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.

(e) The applicant shall attend the trial regularly.

(f) The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

7. The application is disposed of.

(M. S. KARNIK, J.)