

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

ANTICIPATORY BAIL APPLICATION NO.729 OF 2023

Shahid Anwar Shaikh
versus
State of Maharashtra & Anr.

.... Applicant
.... Respondents

.....

- Mr. Debajyoti Talukdar, Advocate for Applicant.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.
- None present for the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 24th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.3/2023, dated 03/01/2023, registered with Mundhva Police Station, Pune City, under sections 363, 354, 509, 504, 506 of the Indian Penal Code and under section 8 and 12 of the Protection of Children from the Sexual Offences Act, 2012. Initially, the FIR was filed only under section 363 of the Indian Penal Code. Subsequently, all these sections were added.

2. Heard Mr. Debajyoti Talukdar, learned counsel for the Applicant and Ms. Pallavi N. Dabholkar, learned APP for the State.

3. The prosecution case as reflected in the FIR is that the victim girl was about 16 years of age. On 03/01/2023 she had gone to her school, but though the school was over at 10.00 a.m. she did not return home. Therefore, the mother of the victim approached the police station and lodged her FIR at 11.30 p.m. The date of birth of the victim was 09/11/2007. The investigation was carried out and the girl and the present Applicant were found around midnight. They were taken into custody. The victim was given in custody of her parents. The Applicant was arrested.
4. Learned counsel for the Respondent No.2 is not present. He was not present on 22/01/2024 as well. Therefore, it appears that the Respondent No.2 is not interested in opposing this application.
5. Learned APP on instructions states that the investigating agency does not want to arrest the present Applicant.

6. Learned counsel for the Applicant submitted that the victim and the Applicant were having a love affair and he relied on the photographs annexed to this application. He submitted that the charge-sheet is filed. He produced copy of charge-sheet on record. It is taken on record and marked 'X-collectively' for identification.

7. I have considered these submissions and in particular I have perused the statement of the victim herself. She has stated that she had left her house in the morning on 03/01/2023. But she did not attend her school. She met the present Applicant, who was her friend. They roamed around for some time. They went to Saras Baug and then to Koregaon Park. They were moving around till 12.30 in the night. She has specifically stated that she was afraid of her family as they used to torture her. Therefore, the Applicant was taking her to his house. On the way the police stopped them and took them in custody. This statement clearly shows that the victim had willingly accompanied the Applicant. The Applicant had not committed

any objectionable act with her. The Applicant himself is a young boy of 20 years of age. The investigating agency does not want his custody. The victim has supported the Applicant's case in her own statement referred to hereinabove. The photographs annexed to this application show that they were in friendly relationship. Considering all these aspects, the Applicant can be protected under section 438 of Cr.PC.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.3/2023, dated 03/01/2023, registered with Mundhva Police Station, Pune 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 application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)