



Diksha Rane

11. BA 4078-23.doc

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

BAIL APPLICATION NO.4078/2023

ARIFA JAMIR PATHAN

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Gaurav Parkar a/w. Adv. Shantanu Kadam for the
applicant.

Smt. Sangeeta D. Shinde, APP for the State.

Adv. Vilasini Balasubramanian for the respondent no.2.

CORAM : M. S. KARNIK, J.

DATE : MARCH 1, 2024.

P.C. :

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel who appointed through legal aid to represent the respondent no.2.

2. This is an application for bail in respect of the offence punishable under Sections 363, 366, 366-A, 370, 376, 376(3), 120-B read with 34 of the Indian Penal Code (hereafter 'IPC' for short) and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 along with Sections 9, 10 and 11 of the Prohibition of the Child Marriage Act, registered vide C.R. No.144 of 2022 with

Shrivardhan Police Station on 30/10/2022. It is the allegation that the applicant and another accused forced the victim to marry the co-accused Wahid on 2/11/2022. On the basis of missing complaint lodged by the victim's parents, the victim was handed over to her parents.

3. The applicant was arrested on 5/11/2022 and now in pre-trial custody for almost 15 months. The bail application earlier filed on behalf of the present applicant was allowed to be withdrawn by this Court on 24/8/2023. The applicant was granted liberty to apply for bail after three months. I am informed that even now the charges have not been framed. The applicant is a woman. Further detention only will be by way of a pre-trial punishment. The applicant will face the consequences post-trial if found guilty. The applicant does not appear to be a flight risk. I am informed that the victim is residing at Shrivardhan and she is a neighbour of the applicant. I am inclined to enlarge the applicant on bail in the facts and circumstances of the present case and also considering that she is a woman but by imposing conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Arifa Jamir Pathan in connection with C.R. No.144 of 2022 registered with Shrivardhan Police Station shall be released on bail on her furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (e) The applicant shall not reside within the jurisdiction of Shrivardhan Police Station. It is open for the applicant to move an application for modification of this condition before the trial Court and the said application may be considered on its own merits.
- (f) While residing outside the jurisdiction of Shrivardhan Police Station, the applicant shall furnish her contact number and residential address to the

Investigating Officer and shall keep him updated, in case there is any change.

(g) The applicant shall attend the trial regularly.

(h) The applicant shall surrender her passport to the investigating officer.

4. The application is disposed of.

(M. S. KARNIK, J.)