

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 145 OF 2024

Sahil Anwar Shaikh

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

- Mr. Sameer Khatib, for Applicant.
- Mr. Sagar R. Agarkar, APP for Respondent.
- Mr. Manoj M. Badgujar, for Respondent No.2.
- Mr. Satish Kamble, API, Antophill Police Station, Mumbai, present.

CORAM : MANISH PITALE, J.

DATE : 28th JUNE, 2024.

P. C. :

1. Heard, Mr. Sammer Khatib, learned counsel for the applicant, Mr. Sagar Agarkar, learned APP for the State and Mr. Manoj M. Badgujar, learned counsel appointed for appearing on behalf of the victim.

2. In the present case, the applicant is one of the two accused persons against whom FIR was registered on 22nd September, 2023, at Police Station Antophill, Mumbai, initially for offence under Section 363 of the Indian Penal Code (IPC), but subsequently offences under Sections 376(3) and 506 read with 34 of the IPC were added, along with offences under Sections, 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. The informant is the mother of the victim. As per the

prosecution the victim at the time of offence was 14 years old. The informant stated in her statement, which led to registration of the FIR that her daughter i.e. the victim was missing from the house and she did not immediately rush to the police because earlier also she had left the house and returned back in about a month. But when her daughter did not return even on the next day, she was constrained to reach out to the police and on the basis her statement, initially offence under Section 363 of the IPC was registered. Subsequently, the victim was found in the house of the co-accused person and upon further investigation, the aforementioned additional offences were added against both the accused persons. The co-accused was granted bail, but, the applicant has remained behind bars since 22nd September, 2023, when he was arrested. According to the learned counsel for the applicant, the date and time of registration of the FIR when compared with the statement of the victim herself shows that there are inconsistencies. It is submitted that even as per the victim she had voluntarily joined the company of the applicant and the co-accused person. It is further submitted that the history recorded during the medical examination of the victim indicates contradiction in her version. It is further submitted that the applicant himself at the time of the incident was 20 years old. It is alleged that the victim is in the habit of making such allegations and in that context reference is also made to a subsequent FIR registered against an unknown person.

4. The learned APP opposed the prayer and he relied upon the statements of witnesses, as also medical evidence, which shows that the victim had undergone recent sexual intercourse and it is submitted that since the victim was only 14 years, at the time of incident, there is no question of consensual act in the present case.

5. This Court has perused the material on record. The statement of the informant, when read with the statement of the victim, indicates the chain of events that occurred leading to registration of the FIR. The victim is stated to be only 14 years old at the time of incident. She has specifically stated that the applicant forced himself on her in the house of the co-accused person. The medical evidence also indicates recent sexual activity. The victim being a minor girl of only 14 years of age, there is no question of any consensual act or any such defence being available to the applicant.

6. Considering the material on record, it cannot be said that the involvement of the applicant is remote or that he has been falsely implicated. The offences are serious and no case is made out for granting bail.

7. The charge-sheet has been already filed and therefore, appropriate directions can be issued for expediting the trial.

8. In view of the above, the application is dismissed. The Trial

Court is directed to frame charges within six weeks from today. The trial shall be completed as expeditiously as possible and an endeavor be made to complete the trial within one year.

(MANISH PITALE, J.)