

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

ANTICIPATORY BAIL APPLICATION NO. 3 OF 2024

Nikhil Rajaram Vaity

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Nilesh Navale for Applicant.

Mr. Vithal B. Konde-Deshmukh for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 4 JULY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.376 of 2023 registered at Arnala Police Station, Mira-Bhayandar, on 23.11.2023, under sections 354 and 354-A of the Indian Penal Code and U/s.8 of the Protection of Children from Sexual Offences Act (hereinafter referred to as 'POCSO Act').

2. Heard Mr. Nilesh Navale, learned counsel for the Applicant and Mr. Vithal B. Konde-Deshmukh, learned APP for the State.

3. The F.I.R. is lodged the victim herself. She was 17 years

of age. She has stated that she was knowing the present applicant. She herself had sent friend request on a social networking site to him and thereafter they were exchanging messages. They had become good friends. Thereafter they exchanged their phone numbers. The applicant proposed love to her. She accepted it.

4. On 07.10.2023, the applicant called her telephonically and expressed a wish to meet her. They had accordingly met. On 10.10.2023, the informant told about their love affair to her mother, who had strongly opposed it. Therefore, the victim told the applicant to stop communicating with her. On 23.11.2023, the informant went to a temple with her aunt. At that time, the applicant also came to that temple. When the victim was about to step out of the temple to go home, the applicant stopped her. There was some conversation. She told him that she could not continue their relations. At that time, allegedly, the applicant held her T-shirt. She started shouting. It is her case that he tore her T-shirt and touched to her breast and caught her. Then he ran away. On this basis the F.I.R. was lodged.

5. Learned counsel for the applicant submitted that, admittedly, there was a love affair between both of them. The present F.I.R. is lodged only at the behest of the victim's family. The applicant has not committed any offence. According to the victim, the incident had occurred in the presence of other people in the temple, but she is not supported by any independent witness because the incident is not true. He, therefore, submitted that the F.I.R. is lodged because of the pressure of the victim's family and, hence, the applicant deserves protection of anticipatory bail order. His custodial interrogation is not necessary.

6. Learned APP produced the investigation papers before the Court. I have perused them. In the investigation papers, besides the victim, there is a statement of her aunt who has supported the victim's case. However, there is no other independent witness, though, the incident had taken place in the temple in the presence of others. Apart from that, the torn T-shirt is not produced. The F.I.R. itself shows that, there was a love affair between the informant and the applicant. There was pressure of her family to sever the relationship. In this view of the matter,

there is force in the submission of the learned counsel for the applicant. Hence, I am inclined to protect the applicant by way of an order U/s.438 of the Cr.p.c.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.376 of 2023 registered at Arnala Police Station, Mira-Bhayandar, the applicant is directed to be released on bail on his executing P. R. 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 not cause any harassment to the victim or her family.
- iii) The applicant shall cooperate with the investigation.
- iv) The Application is disposed of.

(SARANG V. KOTWAL, J.)