

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

Anticipatory Bail Application No.1748 of 2024

Hitesh Bhanwarlal Prajapat,
Age-22 Years, Occ.-Business,
Res. At Room No.403, MHADA Colony,
Build. No.18, Pratiksha Nagar,
Sion- Mumbai – 400022.

... Applicant

v/s.

1. The State of Maharashtra
(To be served through the Sr.P.I.,
Mumbra Police Station, Dist. Thane).

2. Mr. X

... Respondents

Mr DP Adsule, for the applicant.

Ms Rajeshree Newton, APP, for respondent No.1/ State.

Coram: R.N. Laddha, J.

Date: 8 July 2024

P.C. :

By the present application, the applicant seeks pre-arrest bail in connection with CR No.812 of 2024, registered at Mumbra Police Station, Thane, for the offences punishable under Sections 363 and 376(2)(n) of the Indian Penal Code, and Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012.

2. Initially, the prosecution alleged that an unknown person had kidnapped the victim, and an offence was lodged under

Section 363 of IPC. However, after investigation, the applicant is accused of forcibly marrying the victim and committing sexual assault on her.

3. Mr DP Adsule, the learned Counsel appearing on behalf of the applicant, argues that the victim's father represented the applicant and his family, that the victim and the applicant were of the same age, and accordingly, their marriage was fixed. An engagement ceremony was also performed in the applicant's village. The families decided to get the children married in December 2023, leading to the applicant's father arranging the catering and other services in advance. In the meantime, the victim and the applicant used to meet each other and developed cordial relations, and the victim also attended the applicant's family functions. Due to some differences, the victim's father opposed the marriage proposal; however, the victim wanted to marry the applicant. The learned Counsel contends that frustrated by the harassment by the father, the victim visited the applicant's house on 22 February 2024 and threatened him to take her or else she would commit suicide. As a result, the victim and the applicant went to Pune to tie the knot.

4. Mr Adsule, the learned Counsel, submits that the applicant is innocent and falsely implicated in the present crime. The

present complaint was lodged due to pressure from the victim's father and relatives. In the victim's first statement, she admitted to visiting the applicant's house as her father demanded money from the applicant's family. The medical examination of the victim does not reveal any physical relations. He also submits that the applicant is ready to abide by all conditions this Court may impose, including his medical examination. The investigation is over, and the applicant's custody is not necessary.

5. Conversely, Ms Rajeshree Newton, the learned Additional Public Prosecutor representing respondent No.1/ State, submits that the victim was a minor and the offence is serious. The applicant's custody is required to conduct his medical examination. If the applicant is granted bail, he may tamper with the evidence or influence the witnesses. However, the learned APP concedes that the investigation is almost over, and the charge sheet will be filed within a few days.

6. After reviewing the records, *prima facie*, it transpires that there is material to indicate that the families of the applicant and the victim knew each other and had decided to fix their marriage. The applicant and the victim were also engaged, and the victim used to visit the applicant's house and attend family

functions. According to the prosecution also, at the time of lodging the FIR, the victim was more than 17 years old. However, there is no material on record showing the victim's exact age. The applicant is also young, about 22 years old. Additionally, the medical reports do not show any signs of sexual assault. The learned APP fairly acknowledges that the investigation is almost over, and the applicant's custody is required only for medical examination. The charge sheet will be filed in a few days. The prosecution's apprehension about tampering with evidence and influencing the witnesses can be addressed by imposing appropriate conditions. Given these circumstances, the application stands allowed in the following terms:

- (i) In the event of the applicant's arrest in connection with CR No.812 of 2024, registered at Mumbra Police Station, Thane, he be released on bail upon executing a PR Bond of Rs.25,000/- with one or more sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and attend the concerned Police Station on 9 July 2024 and 10 July

2024 between 11:00 am and 2:00 pm,
and thereafter, as and when required.

(iii) The applicant shall not himself or
through any other person tamper with
the evidence or influence the witnesses.

7. The present application stands disposed of accordingly.

(R.N. Laddha, J.)