

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

Anticipatory Bail Application No.3423 of 2024

Smarth @ Vaibhav Santosh
Khandagale

Age 21 years, Occ :Student

Shastrinagar, Tal. Shevgaon,

District-Ahmednagar-414502.

..... Applicant.

Vs.

The State of Maharashtra

Through Kashimira Police Station,

Thane

..... Respondent.

Ms Tanaya Goswami, for the applicant.

Ms Supriya Kak, APP, for the respondent/State.

PI Sheetal Mundhe, Kashimira Police Station, Mira-
Bhayander, Vasai-Virar.

Coram : R.N.Laddha, J.

Date : 16 December 2024.

P.C. :

Heard Ms Tanaya Goswami, the learned Counsel appearing on behalf of the applicant and Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent/State.

2. By this application, the applicant seeks pre-arrest bail in connection with CR No.382 of 2024, registered with

Kashimira Police Station, Thane, for offences punishable under Sections 354-D of the Indian Penal Code, 1860, Section 12 of the Protection of Children from Sexual Offences Act, 2012, and Sections 67 and 67-A of the Information and Technology Act, 2008.

3. According to the prosecution, the applicant created two fake Instagram accounts using the informant's name and uploaded obscene and morphed photographs of her on social media, thereby outraging her modesty.

4. The learned Counsel appearing on behalf of the applicant, submits that the applicant has been falsely implicated in this crime. The applicant is willing to cooperate with the investigation and abide by the conditions imposed by this Court. The learned Counsel submits that Section 354-D of the IPC is a bailable offence, and Section 12 of the POCSO carries a maximum punishment of three years. The applicant and the victim knew each other via Instagram, later began chatting on WhatsApp, had an affair, and met in person. There has been a considerable delay in filing the FIR.

5. The learned APP submits that the applicant became acquainted with the victim through Instagram and misused social media by uploading morphed photographs, thereby outraging the modesty of the victim. The act of circulating her obscene and morphed photographs on Instagram caused the victim severe mental and physical distress, leading to social isolation and confinement. The allegations are serious, and the delay in filing the present application remains unexplained as the Sessions Court rejected the applicant's pre-arrest bail application on 9 October 2024, and the present application was filed on 3 December 2024. Further, the mobile phone used in the crime is yet to be recovered. The investigation is at a nascent stage. The applicant's custody is necessary to identify additional devices that may contain the alleged obscene photographs.

6. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records.

7. Upon reviewing the records, it appears that the Sessions Court, Thane, denied the applicant's pre-arrest bail application on 9 October 2024; however, the applicant only

filed this application on 3 December 2024, without explaining the delay and remained unavailable for investigation. The record, *prima facie*, shows that the applicant created the fake Instagram accounts, tagged the victim's friends, and uploaded obscene and morphed photographs of her. The mobile phone allegedly used in the crime, which belongs to the applicant, is yet to be recovered. The investigation also aims to ascertain if the applicant has stored these obscene photographs in other locations. The investigation is in progress. The allegations are serious in nature particularly as they involve a minor.

8. In view of the above, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

[R. N. Laddha,J.]