



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CRIMINAL APPLICATION (ABA) NO. 91 OF 2024**

Mohd. Farhan Abdul Gaffar @ Shaikh Farhan Shaikh Gaffar  
V/s  
State of Maharashtra and another.

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Office Notes, Office Memoranda of  
Coram, appearances, Court's Orders  
or directions and Registrar's order

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Court's or Judge's Order

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Mr. Firdos Mirza, counsel for Applicant.  
Ms. T.H. Udeshi, APP for Non-applicant/State.  
Mr. T.U. Tathod, counsel for Non-applicant No.2.

**CORAM : URMILA JOSHI-PHALKE, J.**  
**DATED : 11/06/2024.**

1. Apprehending the arrest at the hands of police, in connection with Crime No. 781/2023 registered with Police Station, Manora, District Washim for the offences punishable under Sections 354, 354-A and 506 of the Indian Penal Code, 1860, and Section 8 of the Protection of Children from Sexual Offences Act, 2012, the applicant approached the Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by the father of the victim girl, on an allegation that on 09/12/2023 at about 6.00 p.m. he was at home, at that time from his daughter, he received the information that when she had been to shop for purchasing chocolate, the present applicant approached and communicated with them, and thereafter took the victim girl in a urinal place and forcefully kissed her on her lips,

thereafter the victim girl ran away. On the basis of said report, the police have registered the crime against the present applicant.

3. Learned counsel Mr. Mirza for the applicant submitted that out of a previous dispute on account of agricultural land which is adjacent to each other, the present applicant is implicated in the alleged offence. He submitted that, now the investigation is completed and charge-sheet is filed. As far as the custodial interrogation is concerned, which is not required, as nothing is to be recovered from the present applicant. He further submitted that the applicant has complied with all the conditions imposed by this Court while releasing the applicant on ad-interim anticipatory bail.

4. Learned APP strongly opposed the application on the ground that the contention of the applicant that he is falsely implicated is falsified. During the investigation, the investigating officer has collected the CCTV footage, which completely shows the involvement of the present applicant, his custodial interrogation is required. She submitted that though the investigation is completed, but considering the gravity of the offence, the applicant has not made out the case for grant of anticipatory bail. She further submitted that statement of the victim and the two girls, who were alongwith her supported the case of the prosecution. In view of that, the present application deserves to be rejected.

5. Learned counsel for the non-applicant No.2 reiterated the same contention and prays for rejection of the application.

6. After hearing learned counsel for the applicant, learned APP for the State, and learned counsel for the non-applicant No.2, perused the recitals of the FIR as well as the statements of the witnesses. There is no dispute as to the fact that the statement of the victim as well as her two friends narrates about the alleged incident. Their statement is also supported by the CCTV Footage, wherein the presence of the applicant was shown at the spot of incident. Admittedly, now the investigation is completed and charge-sheet is filed. Considering the nature of the incident, which shows that a small victim girl was subjected for sexual harassment at the hands of the applicant but now, the investigation is already completed and charge-sheet is already filed.

7. Learned counsel for the applicant relied upon the decision of the Hon'ble Supreme Court of India in the case of *Ashok Kumar Vs State of Union Territory, Chandigarh in Special Leave Petition (Cri.)9949/2023 dated 01/03/2024*, wherein it is held that there is no gainsaying that custodial interrogation is one of the effective modes of investigating into the alleged crime. It is equally true that just because custodial interrogation is not required that by itself may also not be a ground to release an accused on anticipatory bail if the offences are of a serious nature. However, a mere

assertion on the part of the State while opposing the plea for anticipatory bail that custodial interrogation is required would not be sufficient. The State would have to show or indicate more than prima facie, why the custodial interrogation of the accused is required for the purpose of investigation. No doubt, the allegations are of a serious nature, now investigation is completed and charge-sheet is filed, no purpose will be served by sending the applicant behind bar. In view of that, application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

**ORDER**

- (a) The criminal application is **allowed**.
- (b) In the event of arrest, in connection with Crime No. 781/2023 registered with Police Station, Manora, District Washim for the offences punishable under Sections 354, 354-A and 506 of the Indian Penal Code, 1860, and Section 8 of the Protection of Children from Sexual Offences Act, 2012, the applicant – Mohd. Farhan Abdul Gaffar @ Shaikh Farhan Shaikh Gaffar shall be released on anticipatory bail on executing PR. Bond in the sum of Rs. 25,000/- with one solvent surety in the like amount.
- (c) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case.

- (d) The applicant shall not enter into the village - Kupta, Tq. Manora, District Washim till the culmination of the trial.
- (e) The applicant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

The Criminal Application is **disposed of**.

**[URMILA JOSHI-PHALKE, J.]**