

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

ANTICIPATORY BAIL APPLICATION NO. 1493 OF 2025

Manihar Shoeb Munawar Hussain,
Age : 21 years, Occu. Student,
R/o. Room No. 3, Shah Niwas,
Jakina Bai Chawl, Kajupada Pipeline,
Kurla West, Sakinaka, Mumbai.

....Applicant

Versus

The State of Maharashtra and Another

...Respondents

.....
Mr. G. R. Syed – Advocate for the Applicant

Mr. B. B. Bhise – APP for the State

Mr. Jitendra Shantilal Jain – Advocate for Respondent No. 2 / Victim

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CORAM : NEERAJ P. DHOTE, J.

DATED : 29TH SEPTEMBER, 2025

PER COURT : -

1. Heard the learned Advocate for the Applicant, learned APP for the State and the learned Advocate for Respondent No. 2 / Victim.

2. The Applicant, who is the Accused in C.R. No. 0043 of 2022 registered with Daulatabad Police Station, District Aurangabad [Renamed 'Chhatrapati Sambhajanagar'], for offences punishable under Sections 363 and 376 of the Indian Penal Code, 1860 [in short 'IPC'] and Section 4 of the Protection of Children from Sexual Offences Act, 2012 [for short "POCSO Act"], has filed the present Application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking Anticipatory Bail.

3. The Prosecution's case, in brief, is that the Informant's daughter aged 17 years of age was kidnapped by the Applicant and she was subjected to sexual abuse at different places. The victim was located through the maternal aunt of the Victim.

4. True it is, that the Crime is registered for the aforesaid Sections of IPC and POCSO Act. The statement of the Victim, who was 17 years of age at the time of incident, indicates that she eloped with the Applicant. They stayed together at many places. The medical report shows no signs of use of force. There is inconsistency in the statement of the Victim recorded by the Police and by the learned Magistrate in respect of rape. The investigation is complete and the Charge-sheet is filed. The learned Advocate for the Applicant relies on the order of the Hon'ble Supreme Court of India in *Asha Dubey – Appellant Versus The State of Madhya Pradesh – Respondent*, reported in *2024 All SCR 2155*, in support of his submission that the Application is maintainable even though the proclamation is issued against the Applicant under Section 82 of the Cr.P.C. In this view of the matter, the Application can be allowed by imposing appropriate conditions on the Applicant. Hence, the following order: -

ORDER

[i] The Application is allowed.

[ii] In the event of arrest of the Applicant, Manihar Shoeb Munawar Hussain, in connection with C.R. No. 0043 of

2022 registered with Daulatabad Police Station, District Aurangabad [Renamed 'Chhatrapati Sambhajanagar'], for offences punishable under Sections 363 and 376 of the IPC and Section 4 of the POCSO Act, he be released on bail on his furnishing P.B. of Rs. 30,000/- [Rupees Fifteen Thousand], with one surety in the like amount.

- [iii] The Applicant shall attend Daulatabad Police Station, as and when called. He is further directed to co-operate with the Investigating Agency and the learned Trial Court.
- [iv] The Applicant shall not tamper with the evidence in any manner whatsoever.
- [v] The fees of the learned Advocate appointed to represent Respondent No. 2 is quantified at Rs. 15,000/- (Rupees Fifteen Thousand), which shall be paid by the High Court Legal Services Sub-Committee, Aurangabad Bench.
- [vi] The Application stands disposed off.

[NEERAJ P. DHOTE]
JUDGE

SG Punde