



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

13 ANTICIPATORY BAIL APPLICATION NO. 1696 OF 2024

KIRAN GANESH SHELKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Ms. Manisha Sambhaji Dalave, Advocate for Applicant (Through VC)
Smt. Kavita R. Jamdhade, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 6th JANUARY, 2025

PER COURT :-

1. Applicant apprehends arrest in connection with Crime No. 0089/2024, registered with Shiradhon Police Station, District Osmanabad for the offences punishable under Sections 363, 366-A, 376 r/w 34 of the Indian Penal Code and Sections 4, 8 and 12 of the The Protection of Children from Sexual Offences Act (POCSO).

2. The first informant is father of the victim girl aged about 15 years. The informant claims that on the midnight on 24/04/2024 and 25/04/2024 the victim was not found at home. Search was taken but she could not be traced. When the mobile phone was checked it was found that there was a phone call received at around 1.00 a.m on 25/04/2024 of co-accused Aakash. When the informant went to his house he was not found at home. Offence therefore was registered against him for

kidnapping minor girl. Later on it was revealed that present applicant who is cousin of the Aakash aided the commission the said crime by providing his vehicle as well as monetary help.

3. Learned counsel for the applicant submits that perusal of the first information report itself indicates that this could be case of love affair between the victim girl and co-accused. As far as present applicant is concerned, it is her contention that having regard to the fact that the victim girl in wee hours on her own has left her parental house and as such it cannot be said that the applicant was any way responsible for the same. It is submitted that in any case custodial interrogation of the applicant is not necessary.

4. Learned APP opposed the application by contending that this is a serious crime committed against a minor girl. She also claims that the consent of minor is immaterial material both for the purpose of leaving company of the parents as well as for physical relations.

5. In so far as present application is concerned, the facts as they appear from the first information report as well as the statement of the girl recorded under Section 164 of the Code of Criminal Procedure indicate that she on he own went along with the co-accused. This Court therefore finds *prim facie* substance in the contention of the learned

counsel for the applicant that this could be a case of love affair. As apparently nothing can be attributed to the applicant in the offence of kidnapping.

6. Having regard to the afore stated facts, this is not the case of custodial interrogation of the applicant. His liberty was protected by interim order dated 07/10/2024. The applicant is aged about 25 years with no criminal history. He is not likely to abscond. There is nothing to show that he has misused the said liberty. Hence, application stands allowed in terms of interim order dated 07/10/2024.

(R. M. JOSHI, J.)

ssp