



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 183 OF 2026

Shahebaz Shahnawaz Shaikh

....Applicant

VERSUS

The State Of Maharashtra And Another

.....Respondent

.....
Advocate for Applicant : Mr. Tilve Akshay Subhash
APP for Respondents: Mr. A.S. Shinde.

CORAM : MEHROZ K. PATHAN, J.

DATE : 23rd FEBRUARY, 2026.

P.C. :-

1. The applicant has approached this court seeking anticipatory bail in connection with Crime No. 293 of 2024 registered with Chawani police Station, District Chhatrapari Sambhaji Nagar for the offences punishable, under Sections 376, 363, 504, 506 r/w. 34 of IPC and under Sections 4, 8 and 12 of the POCSO Act and under Sections 9.10, and 11 of the Prohibition of Child Marriage Act.

2. At the outset, the learned APP vehemently opposes the present application on the ground that the present application is a successive bail application. The earlier application filed by the applicant came to be rejected vide order dated 6.3.2025 in Anticipatory Bail Application No. 1200 of 2024.

3. The learned counsel for the applicant submits that the order of withdrawal dated 6.3.2025 does not record any disinclination to entertain the application for bail by this Court. The said application was simplicitor withdrawn by the applicant. Not only this, there was an

interim order operating in favour of the applicant, vide order dated 18.7.2025 whereby the applicant was released despite of the stringent provisions of the POCSO Act being invoked in the present case. The applicant was directed to attend the concerned police station as and when required by the Investigating Officer. The applicant had thereafter attended the police station and cooperated with the investigation. Taking into consideration the cooperation of the applicant with the Investigating Officer and necessary samples being drawn and filling up the arrest form and the necessary procedure being followed, the Investigating Officer has finally submitted a charge sheet on 11.9.2024 before the learned trial court.

4. The learned counsel for the applicant, therefore, submits that in view of the filing of the charge sheet by the prosecution, there remains nothing to be investigated as against the applicant. The custodial interrogation of the applicant, thus, may not be necessary. The perusal of the allegations made in the FIR itself would show that the victim had actually gone to the police station, to lodge the complaint against the complainant/father. The father had thereafter taken the girl back to home from the police station on 2.6.2024 and two days thereafter, the present FIR came to be registered on 4.6.2024. The FIR filed by the father would itself show that the grandmother of the victim - Saberabee had taken her to the house of the applicant. The statement of the victim was recorded after two days. In the statement of the victim which is filed alongwith charge sheet would show that another story is stated by the victim about the performance of a forced marriage by the applicant on 1.6.2024. The victim further states that the on 2.6.2024 at about 11.00 p.m. the applicant Shahebaz, his father and entire relatives had dropped the victim girl to the place of her father on 2.6.2024, whereas, in the FIR, the father states about taking away the girl from the police station. The statement of the victim girl was recorded by the prosecution

under Section 164 of Cr.PC. wherein, another story is projected i.e. about the engagement ceremony performed on 31st May, 2024 and the mediator for such marriage had made a demand for money and it is on that ground that the marriage was cancelled. However, the grandmother of the victim and her sister had performed the marriage of the victim without the knowledge of the complainant. The victim came to know about the marriage of the applicant earlier. The father of the victim had thereafter lodged a complaint with the police station. The victim was thus taken to the house of the complainant's father by the applicant Shahebaz and his relatives. Thus, three different stories are being projected by the prosecution at various stages. The victim girl herself is ready to perform the marriage with the applicant. The medical examination papers filed alongwith the charge sheet also do not corroborate the allegations made in the FIR about the sexual intercourse, allegedly committed by the applicant. The present FIR is filed only with an intention to save the family from the clutches of Prohibition of Child Marriage Act. The applicant is not having any criminal antecedents and is ready to abide by any conditions that may be imposed by this Court.

5. As against this, the learned APP vehemently opposes the present application on the ground that the offence is serious in nature, wherein, the minor victim girl aged about 13 years has alleged forcible sexual intercourse at the behest of the applicant on the pretext of false marriage being performed with the assistance of the applicant and his family members and the grandmother of the victim. There are no discrepancies in the FIR, the 161 statement of the victim and the 164 statement recorded by the police of the victim girl. The victim girl has rather reiterated the fact that the applicant has committed sexual intercourse with the girl in the intervening night between 1.6.2024 and 2.6.2024. The offence is serious in nature. The Medical examination papers shows that the doctor examining the victim has given an opinion

that the sexual violence against the victim cannot be ruled out. The history of the medical examination papers also shows that the allegations of sexual intercourse are there against the applicant. The date of birth of the victim is 5.2.2011 and she was 13 years old at the time of performance of marriage. Sections i.e. 9,10 and 11 of the Prohibition of Child Marriage Act are invoked. Stringent provisions of the POCSO Act, i.e. Sections 4, 8 and 12 are also invoked alongwith Section 376 of IPC. Hence, this is not a fit case to grant anticipatory bail particularly when the earlier application is withdrawn.

6. I have gone through the charge sheet made available by the learned counsel for the applicant. Perusal of the charge sheet would show that the FIR is filed at the behest of the complainant i.e. father of the victim, thereby specifically stating that the girl was present in the police station on that day and he received a call from the police station that the girl was about to lodge a complaint against the complainant/father. The complainant therefore arrived at the police station alongwith the relatives and there, it was for the first time he informed that it was the grandmother of the victim who had taken the girl alongwith her and left her at the house of Shahebaz i.e. present applicant, where the applicant Shahebaz is alleged to have outraged her modesty. The allegations of forcible sexual intercourse at the behest of the applicant is absent in the FIR registered on 4.6.2024 after the girl was taken by the complainant father from the police station on 2.6.2024. Perusal of the FIR would show that the same is lodged on 4.6.2024 even though the girl came alongwith the complainant father on 2.6.2024. Thus, there is a delay of two days in lodging the FIR, which is not explained in the FIR.

7. The statement of the girl came to be recorded by the

prosecution two days after the lodging of the FIR i.e. on 6.6.2024. The statement of the victim under Section 161 of Cr.PC. depicts a different story altogether, where the girl is said to have performed the marriage, that the entire family members of the victim except the complainant father were present alongwith the family members of applicant Shahebaz and they had performed the engagement on 31.5.2024 at about 7.30 p.m. The victim girl further states that on 1.6.2024 at about 12 Noon, the grandmother of the victim Saberabee and her sister had taken the victim girl in a rickshaw to Itkheda, Beed By-pass, and thereafter to Ansar Colony at the house of Shahbaz at about 2.10 p.m. The father of applicant Shahebaz had then called upon the Priest to perform the house, which was performed at 4.00 p.m. on said date and a Nikahnama was also signed in their behalf, wherein, the victim girl has put her signature alongwith one Murid Khan in place of her father. The girl thereafter alleges sexual intercourse in the intervening night of 1.6.2024 and 2.6.2024 by the applicant/accused Shahebaz. It is surprising to note that the said allegation of sexual intercourse by applicant Shahbaz though had taken place between the intervening night of 1.6.2024 and 2.6.2024, and the girl was taken into custody by the complainant father on 2.6.2024 from the police station, however, the FIR which is lodged two days thereafter, does not make a mention about any sexual intercourse being performed by the applicant in the intervening night of 1.6.2024 and 2.6.2024. The said omission on the part of the complainant father, therefore, needs consideration in the present case.

8. In her statement under Section 161 Cr.PC. recorded on 6.6.2024. the girl also states a different story about the girl being handed over in the custody of the complainant father by the parents and relatives of the present applicant Shahebaz on 2.6.2024 at about 11.00 p.m. The FIR filed by the complainant father on the other hand, shows that the complainant father took custody of the victim girl from the

police station on 2.6.2024. This is a major discrepancy which also falls for consideration while deciding the present application for anticipatory bail.

9. Another statement of the girl was recorded during the course of investigation i.e. under Section 164 of Cr.P.C., wherein, the girl has stated that her engagement was performed with the applicant Shahebaz on 31.5.2024 and that there was a quarrel which had taken place because of the non payment of fees of the mediator, who had given the information about the bride to the bride groom. The victim girl again reiterates that she was taken by her grandmother to the house of her aunt and thereafter, went to to the house of the applicant, where, the marriage was performed by the grandmother in the presence of the relatives of the applicant. The victim further states that the information about the performance of marriage was given by her grandmother to the complainant father, who had thereafter filed complaint before the police station and the applicant's relatives had thereafter dropped the girl to the house of the father. The statement of the victim that she was dropped by the applicant and his father runs contrary to what is stated in the FIR that the victim was taken into custody by complainant father from the police station. Thus, this is another discrepancy which creates doubt about the prosecution story. It appears that there is an attempt to suppress the genesis of the crime involved in the present matter. The medical examination papers filed alongwith the charge sheet also do not corroborate the allegations of any sexual intercourse. In the medical examination report the Doctor specifically observed that there are no signs of use of force in sexual violence occurred. However, has merely observed that the attempt of sexual violence cannot be ruled out. The entire test conducted on the private parts of the victim girl shows the finding as "within normal limits". There is nothing to corroborate the allegation made by the complainant's father, who is present before the

court, alongwith the victim daughter. Mr. Swapnil B. Jadhav, learned counsel appears on behalf of the complainant and submits that he has no objection to grant bail to the applicant. The complaint was filed out of misunderstanding.

10. Thus, taking into consideration the discrepancies in the statement of the complainant father, statements of the victim recorded under Section 161 of Cr.PC and Sections 164 of Cr.PC. and also the fact that, the medical examination papers do not corroborate the allegation of forcible sexual intercourse, I am inclined to protect the applicant in exercise of powers under section 482 of the BNSS for granting anticipatory bail to the applicant. The apprehension of the learned APP can be taken care of by imposing stringent conditions upon the applicant. Hence, the following order :-

ORDER

[i] In the event of arrest of the applicant, in connection with Crime No. 293 of 2024 registered with Chawani Police Station, District Chhatrapati Sambhajinagar, for the offences punishable Sections under Sections 376, 363, 504, 506 r/w. 34 of IPC and under Sections 4, 8 and 12 of the POCSO Act and under Sections 9.10, and 11 of the Prohibition of Child Marriage Act, the applicant Shahebaz Shahnawaz Shaikh, be released on bail on furnishing PR Bond in the sum of Rs. 50,000/-, with one or more sureties in the like amount, on the following conditions :-

[i] The applicant shall attend the concerned police station and report to the Investigating Officer on 28th February, 2026 and 7th, 14th, 21st March, 2026 between 11.00 a.m. to 1.00 p.m. and shall cooperate with the investigation and thereafter, till framing of the charge.

[ii] The applicant shall not tamper with the prosecution evidence.

[iii] The applicant shall submit his Aadhar and Pan card to the Investigating Officer alongwith mobile numbers and addresses of two of his near relatives and his current address.

[iv] The application is disposed of.

[MEHROZ K. PATHAN]
JUDGE.

grt/-