

**IN THE SPECIAL COURT FOR PROTECTION OF CHILDREN**  
**FROM SEXUAL OFFENCES ACT, 2012 AT GREATER BOMBAY**  
**ANTICIPATORY BAIL APPLICATION NO.2766 OF 2022**  
**IN**  
**C.R. NO.1187/2022**

**Shahban Abdul Gaffar Shaikh @ Babbu**

Aged 22 years. Occ. : Labour.

Residing at Rafiq Nagar – Part/2,

Near Baab-A-Rehmat Masjid,

Shivaji Nagar, Govandi,

Mumbai – 400 043.

....Applicant

V/s.

**The State of Maharashtra**

**(Shivaji Nagar Police Station)**

....Respondent

**APPEARANCES:**

**For the applicant : Mr. Mohd. Aftab Alam Khan & Zoeb Shaikh,**  
**Advocate for applicant absent.**

**For the State : Smt. Kalpana Hire, SPP for State.**

**CORAM : HER HONOUR THE SPECIAL JUDGE**  
**SMT. S.C. JADHAV (C.R.No.35)**

**DATE : 16/01/2023.**

**ORDER**

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 for grant of pre-arrest bail.

2. Applicant apprehends his arrest in Crime No.1187/2022 for offences punishable under Sections 354, 323, 506 read with 34 of Indian Penal Code, 1860 and under Sections 8 and 12 of Protection of Children From Sexual Offence Act, 2012 registered with Shivaji Nagar

Police Station on the accusations that on 26/11/2022 victim – a 9 years old child was returning home with her brother. At that time, applicant/accused and co-accused obstructed her and beat her. It is further alleged that the applicant/accused made scratch on her stomach and chest and thereby outraged her modesty.

3. Applicant contends that he has not committed any offence as alleged by the prosecution. There is dispute between the family of victim and applicant/accused. The mother of victim had already filed report against applicant and others with Shivaji Nagar Police Station on 15/11/2022 wherein the elder sister of victim is shown as victim. In that case, the applicant is already granted anticipatory bail on 29/11/2022. It is also submitted that the father of the applicant was already arrested in this crime, who is released on bail by this court. Nothing is to be seized or discovered at the instance of the applicant. The applicant is ready to co-operate in further investigation. As such his custodial interrogation is not required. He is also ready to furnish the surety to the satisfaction of the court and ready to abide by the terms and conditions as may be imposed by this court. On these lines, he prayed for grant of pre arrest bail.

4. The respondent - State filed its reply and inter-alia denied all the adverse allegations made by the applicant and reiterated prosecution case. It is submitted that the allegations made against the applicant are well founded. There is sufficient evidence against the applicant. Investigation is in progress. The offence is of serious in nature. If the applicant is released on pre arrest bail, there will be hurdle in investigation, he will tamper the prosecution witnesses as well as victim and therefore, it is prayed that the application be rejected.

5. Heard Ld. Advocate for applicant. Heard the learned Special Public Prosecutor Smt. Kalpana Hire for the prosecution. Perused the say filed by the prosecution and documents filed by the applicant. Prima facie, it shows that on 15/11/2022, present informant has filed one report against applicant and co-accused with Shivaji Nagar Police Station, upon which crime No.1080/2022 is already registered. In that crime, elder daughter of the informant is the victim. The documents further shows that on 29/11/2022, the applicant and other co-accused in Crime No.1080/2022 are already granted pre arrest bail. Subsequently, informant filed present report against applicant and other co-accused wherein it is alleged that her another daughter is sexually assaulted by applicant/accused and other co-accused. The documents further prima facie shows that there is enmity between the family of victim and the applicant. However, nothing is to be seized or discovered at the instance of the applicant. Co-accused is already released on bail. Applicant is ready to co-operate in further investigation. As such, in my opinion, his custodial interrogation is unwarranted. Applicant is ready to furnish the surety to the satisfaction of the court and ready to abide by the terms and conditions as may be imposed by this court. As such, applicant has made out a case for grant of pre arrest bail. In view of this, I proceed to pass the following order :-

**:: ORDER ::**

1. Anticipatory Bail Application No. 2766 of 2022 is allowed.
2. In the event of arrest, Applicant – Shahban Abdul Gaffar Shaikh @ Babbu be enlarged on bail, in Crime No. 1187/2022 registered with Shivaji Nagar Police Station, Mumbai, on furnishing personal bond and surety bond of Rs.15,000/- (Rs.

Fifteen Thousand only) with one or two sureties in the like amount.

3. Applicant is directed to attend Shivaji Nagar Police Station on every Monday of each month in between 11.00 am to 2.00 pm till filing of charge-sheet and to assist the Investigating Officer.
4. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as dissuade them for disclosing such facts to the Court or to any police officer.
5. He shall not commit similar or any other offence and misuse the liberty granted by this court.
6. He shall furnish his address proof, identity proof and mobile number, if any and shall not change his residential address without informing the Investigation Officer.
7. Anticipatory Bail Application stands disposed of accordingly.



16/01/2023.

(S.C. JADHAV)  
The Special Judge  
Gr. Bombay

Dictated on : 16/01/2023.  
Transcribed on : 17/01/2023.  
Checked on : 24/01/2023.  
Corrected on : 25/01/2023.  
Sign on : 25/01/2023.

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

25/01/2023. 6.00 p.m.

(Mrs. S.U. Manjrekar)

UPLOAD DATE AND TIME

Stenographer (Grade I)

Name of the Judge (With Court room no.)	<b>Smt. S.C. JADHAV (C.R.No.35)</b>
Date of Pronouncement of JUDGMENT/ORDER	16/01/2023.
JUDGMENT/ORDER signed by P.O. on	25/01/2023.
JUDGMENT/ORDER uploaded on	25/01/2023.