

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 54 OF 2015

Shri Mukund Narayan Shirsat	...	Applicant
vs.		
The State of Maharashtra	...	Respondents

Mr. Kuldeep S. Patil, Advocate for the applicant
Ms. P.P.Shinde, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 20th January, 2015.

P.C.

This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant is apprehending his arrest in Crime No. 451 of 2014 registered at Panvel City Police Station for offences punishable under Sections 376, 354(A)(D), 323, 504, 506(2) of Indian Penal Code.

2. Heard the learned counsel for the applicant, the learned APP and the learned counsel for the original complainant.

3. It is the case of the prosecution that on 17.12.2014, the prosecutrix approached the police station and lodged a report at the police station alleging therein that she is a mother of three major sons i.e. Sumeet aged 23 years, Rohit aged 22 years and Ameet 24 years. According to the complainant, her sons were unaware of the fact that she was working at the bar. She had to fend and maintain

her family and, therefore, she was working with the bar. In January, 2009, while she was working in Time Bar, she had met the present applicant who had gone there as a customer. The present applicant happens to be the public servant and is a Project Officer in the Tribal Development Project. According to her, he had called upon her to Vaibhav Lodge at Panvel. He had threatened her of dire consequences in the nature of informing her sons that she is working as a bar tender. She had therefore obliged. At Vaibhav Lodge, he had ravished her and thereafter they had maintained relations. She has further alleged that the applicant herein had threatened her of dire consequences in the eventuality that she would again join her service as a bar tender. She needed finances and therefore, she continued to work at the bar. He used to go at the said Bar and raise a ruckus which humiliated her. Because of his conduct, the bar owner had removed her from the said services. He had continuously persuaded her and had made her life miserable. According to her, the applicant had taken undue advantage of her loneliness and had ravished her.

4. It is a matter of record that the applicant has been placed under suspension.

5. The learned counsel for the applicant vehemently submits that in fact there were intimate relations between the complainant and the applicant. That the applicant had maintained her till he was suspended. That the applicant was

deserted by his family members because of his relations with the complainant. That the applicant had also given finances for the marriage of her son. It is further urged that only because the applicant had been placed under suspension, he could not afford to maintain her and stopped giving her funds and, therefore, the complainant has approached the police station and lodged the report.

6. The learned counsel for the original complainant submits that in the eventuality the applicant is protected by way of pre-arrest bail, he would tamper with the investigation and therefore he does not deserve the discretionary relief in the form of anticipatory bail. It is further urged that the applicant had taken advantage of his position as a public servant and had committed atrocities on a helpless woman and therefore he does not deserve the said protection.

7. As against this, the learned counsel for the applicant has placed on record certain photographs to show that the relations between the family members of the complainant and the applicant were very cordial. Similarly, the complainant had also met the first wife (who is now divorced). There are photographs showing the complainant in the company of the first wife of the applicant. The learned counsel for the applicant submits that in the given circumstances, custodial interrogation would be unwarranted and unjustified.

8. The learned APP submits that the applicant is indulging into pressurizing the complainant by calling upon her from the cellphone of others. He is not

using his cellphone number. The learned counsel for the applicant upon instructions, gives an oral undertaking that the applicant will not indulge into any such activities. The applicant shall not reside within the jurisdiction of Panvel Police Station till the filing of the charge-sheet.

9. Taking into consideration the facts of the case and the submissions advanced across the bar, this Court is of the opinion that the applicant has made out a prima facie case for grant of pre-arrest bail.

10. The observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

(i) The application is allowed. In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

(ii) The applicant shall not reside within of Panvel City Police station till the filing of the charge sheet.

(SMT.SADHANA S.JADHAV, J.)