

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.745 OF 2016

Rakesh H. Harpude .. Applicant
Versus
The State of Maharashtra .. Respondent

Mrs.Mallika A. Ingale, Advocate for the applicant.
Mr.S.H.Yadav, APP for the Respondent State.
PSI Kunal Kumbhar from Sahar P.Stn present.

CORAM : PN. DESHMUKH, J.

DATED : 17th JUNE 2016

P.C. :

1 Heard.

2 The applicant who is involved in Crime No.407/15 registered by Sahar Police Station for the offences punishable under sections 328, 376, 324 of the IPC, had sought Anticipatory Bail. This Court by its order dated 26th April 2016 has granted pre-arrest bail which is in force.

3 Admittedly, applicant is complying with condition imposed upon him and is attending the Investigating Officer.

4 Learned counsel for the applicant has submitted that on the basis of report dated 4th November 2015 lodged by prosecutrix, initially offence punishable u/s.354, 354A, 323 of the IPC is registered. However, on the basis of subsequent statement of prosecutrix recorded on 10th March 2016, notice was issued to the applicant by the trial Court calling his say for adding Section 376 IPC in the present crime.

5 Learned counsel for the applicant has thus contended that from the contents of statement dated 4th November 2015 since there were no any allegations attracting to provisions of Section 376 IPC, no such offence was registered, and it is only after the gap of four months that complainant's subsequent statement came to be recorded.

6 I have perused the statement dated 4th November 2015 on the basis of which offence as aforesaid came to be registered. From its contents, it reveals that complainant one day prior to her lodging report, was roaming with applicant in his car when one Nagesh – friend of applicant was also accompanying them and they were consuming liquor. According to her statement in the morning at about 7.00 am when she woke up, she found herself lying on a ground below one tree, and had stated that due to her consuming *Vodka* in the night in the company of applicant, she is not aware what took place in the night.

7 From her subsequent statement dated 11th March 2016, applicant had stated that in the night on 2nd November 2015

when she was in the company of applicant and was roaming in his car, applicant administered her some drink due to which she went out of her senses, and thereafter, outraged her modesty by inserting his hand and fingers into her undergarments, and on her informing the applicant that she would inform this fact to his mother, he assaulted her with some heavy article on her head.

8 In the background of facts, as aforesaid, learned counsel for the applicant has further invited my attention to the documents filed with the application which are copies of phone messages send by complainant from her cell phone, cell number of which tallies with the number mentioned in the FIR which are of dated 29/10/2015, 30/10/2015 and 1/11/2015.

9 From the facts as aforesaid, and contents of cell phone messages from complainant, it appears that complainant was willingly roaming with the applicant, and was knowing him prior to her lodging report on 4th November 2015. However, in the report lodged on that day, she had not uttered a single word, nor made any allegation, as has been made subsequently in her additional statement recorded on 10th March 2016 after a gap of four months. The documents also reveals that there are a group of females who are found indulged with educated young boys and then lodge false complaints against them. Some of the NGOs had also made complaints accordingly to the Commissioner of Police, Greater Mumbai. It is material to note that name of complainant Soleda Banu @ Salia Nisar Ahmed Shaikh is specifically mentioned in one such complaint.

10 In that view of the matter, interim protection granted to the applicant is confirmed on same terms and conditions, except for modifying the condition to attend Investigating Officer to the effect that applicant shall attend Investigating Officer on first Monday of each month till the filing of charge between 6.00 pm to 8.00 p.m.

(PN. DESHMUKH, J)