

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1123 OF 2016**

Musaddik Ahmed Mohd Idris... .. Applicant
vs
State of Maharashtra .. Respondent

Mr.Ramesh Dube Patil I/b Jay & Co for Applicant
Mr.S.S.Pednekar Additional Public Prosecutor for State

CORAM: A.M.BADAR, J
DATE: 4TH AUGUST, 2016

P.C.

1. Applicant/accused in Crime No.I-34 of 2016 for the offences punishable under sections 354, 452 and 506 read with 34 of the Indian Penal Code registered with police station Ayesha nagar. Malegaon District Nasik is praying for pre-arrest bail.

2. Heard learned counsel for Applicant/accused,. He argued that the Applicant is falsely involved in the crime in question because of a civil dispute between the parties. He argues that the Applicant had processed five Applications submitted by the prosecutrix as well as her family members for allotment of a flat in the scheme of MHADA. Even the deposits of all the Applications was from the funds of the account of brother of the present Applicant. Though two flats came to be allotted one in the name of the

prosecutrix and another in the name of her father. As agreed, one flat was not transferred to the name of the Applicant and therefore, he has been falsely implicated in the crime in question.

3. The learned APP opposed the Application by submitting that the FIR Is clear and there are statement of witnesses corroborate the version of the informant.

4. Perused papers of investigation. It is averred in the FIR by the prosecutrix that the present Applicant was insisting her father as well as to her that she should marry her. Present Applicant was allegedly demanding sex from the informant/prosecutrix. The informant contended that on 17 April 2016 present Applicant entered in her house and insisted her to divorce her husband. Then he snatched her dupatta from the person of the informant and embraced her.

5. The FIR also contains the averments that the present Applicant was insisting the informant/prosecutrix to ask her father to transfer one flat allotted by MHADA in his name since last 10 years. There is a reference to the information received by the Applicant

under Right to Information Act, 2005 with an averment that the Applicant was threatening the informant/prosecutrix that he will defame her.

6. Undisputedly, present Applicant as well as the informant are teachers in a Municipal school at Malegaon,. The Applicant has placed on record Applications made to MHADA by the informant as well as her family members for allotment of flats. Those Applications are stated to be in the hand-writing of the present Applicant. The pay-in-slips of the banks annexed to the Applications shows that the amount of deposit in respect of those Applications was arranged from the account of Atik Ahmed Mohd Idris who is brother of the present Applicant. The stamps for the affidavit to be annexed to the Applications for allotment of flats are seen to be purchased in the name of the present Applicant. Thus, it is seen that the present Applicant has processed five applications for allotment of flats made by the informant and her family members.

7. Much substance is found in the contention of the learned counsel for the Applicant that there was an understanding between him and the family of the informant that in case of

allotment of more than two flats, one flat will be subsequently transferred in the name of the Applicant.

8. Reference to the Right of Information Act, 2005 in the FIR indicates that the present Applicant has obtained some information in respect of allotment of flats to the family of the informant. It is a matter of common knowledge that MHADA allots only one flat to one family. Averments in the FIR are required to be viewed in this context and the informant/prosecutrix seems to be aggrieved against the present Applicant.

9. The incident is alleged to have been committed on 17 April 2016. The Headmaster of the Municipal School where the Applicant is serving as a teacher has certified by a communication dated 20 June 2016 that the Applicant was present in the school from 3.00 p.m. to 5.00 p.m. on 17 April 2016. According to the informant, the incident took place between 3.00 and 4.00 p.m. on 17 April 2016. It is seen that the informant was having an axe to grind against the present Applicant.

10. In this view of the matter, custodial interrogation of the

present Applicant is not warranted and therefore the following order:

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the Applicant in crime No.I-34 of 2016 for the offence punishable under sections 354, 452, and 506 of the Indian Penal Code police station Ayesha Nagar be released on bail on executing P.R.bond in the sum of Rs.5,000/- with one or more surety in the like amount.
- (iii) As a condition of this order, Applicant/accused shall attend police station Ayesha Nagar on 21 August 2016 between 11.00 a.m. to 12 noon and shall co-operate with the Investigating Officer;
- (iv) Applicant-accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts either to the Court or to any police Officer and that he shall not tamper with the evidence;
- (v) Applicant/accused shall inform his latest place of residence and cell number after his release and continue to inform the change in residence or cell number, if any

from time to time to the Investigating Officer of the concerned police station and on filing the charge sheet to the concerned Court;

(vi) Applicant/accused shall co-operate for expeditious disposal of the trial;

(vii) Applicant/accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;

(A.M.BADAR, J)