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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1226 OF 2016.

Shailesh Kisan Kale Applicant

V/s.

The State of Maharashtra Respondent

Mr. Niranjan Mundargi, I/by Devidas J.Jadhav, for
the Applicant.

Mr. Arfan Sait, APP for the Respondent State.

Mr. C.G. Kamble, Police Inspector, Baramati Taluka Police Station,
District. Pune.

CORAM : A. M. BADAR, J.

DATE : 28th JULY, 2016.

P.C. :

1. The applicant/accused, in Crime No.129 of 2016, registered with Baramati Taluka Police Station, for offence punishable under Sections 376, 354, 324, 323, 504 and 506 of the Indian Penal Code, at the instance of prosecutrix, by this application is praying for pre-arrest bail.

2. Heard the learned counsel for the applicant. He drew my

attention to the F.I.R. lodged by the prosecutrix and argued that the entire averments made in the F.I.R. are unbelievable as well as unnatural. The learned counsel further argued that in fact the applicant was assaulted by members of the prosecuting party and therefore, F.I.R. came to be lodged by the applicant. He was undergoing treatment for his fracture injuries at the hospital. The learned counsel further drew my attention to the affidavit, so also written statement of the informant by which the informant had sworn an affidavit that the F.I.R. came to be lodged because of misunderstanding between the parties.

3. As against this the learned APP argued that the F.I.R. is in consonance with the statement of witnesses. The learned APP, , argued that even the documentary evidence corroborates the F.I.R. lodged by the prosecutrix.

4. Perusal of papers of investigation shows that the prosecutrix reported police that prior to 4 months of lodging F.I.R. the present applicant, who is her cousin father-in-law, snapped their joint photograph and started blackmailing her by showing that he will show the photograph to her husband. According to prosecutrix, the applicant used to extend threats of killing her husband as well as sons. According to the prosecutrix, the applicant used to commit rape upon her. The prosecutrix averred that at the initial stage she has disclosed this incident to her

husband and her husband tried to convince the applicant. Thereafter on 11.4.2016, also the applicant attempted to commit rape upon her and in that process assaulted her. She disclosed this incident to her relatives namely Ashok Salunkhe, Swati Salunkhe, her mother Surekha Pawar and brother Tejas Pawar. As per the F.I.R. on 11.4.2016, when the prosecutrix was discussing the matter with her relatives, the applicant came and started giving abuses. He assaulted Ashok Salunkhe by means of knife. Thereafter the prosecutrix lodged report.

4. Perusal of statements of witnesses recorded by the Investigating Officer, do show that the prosecutrix as well as her husband had disclosed the incident at the initial stage to their relatives and that they all tried to convince the applicant to mend his ways. Statements of witnesses corroborates the incident dated 11.4.2016 reflected in the F.I.R. The injury certificate shows that Ashok Salunkhe suffered incise wound apart from contused abrasion.

5. During pendency of similar application before the learned Additional Sessions Judge, the prosecutrix submitted her written statement as well as affidavit to the effect that the F.I.R. came to be lodged out of misunderstanding. However, subsequently, the prosecutrix has sworn an affidavit that the present applicant as well as his wife Vaishali had pressurized the prosecutrix to swear an affidavit for filing the

same before the learned Additional Sessions Judge. The offence alleged is serious and according to prosecutrix, she was subjected to sexual intercourse without her consent and as such no case for pre-arrest bail is made out. The application, therefore, is rejected.

[A. M. BADAR, J.]