

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1370 OF 2016

Shri Sanjay Arun Desai	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr A.P.Mundargi, Senior Counsel i/b. Mr. Umesh Mankapure, for the applicant.

Mr. S.S.Pednekar, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 18th August, 2016.

P.C.

1. Heard the learned counsel for the applicant and the learned APP for the State. Perused the papers of investigation.
2. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No. 56 of 2016 registered at Mahatma Gandhi Police Station, Miraj, Dist. Sangli on 12.6.2016 and is being prosecuted for the offences punishable under Sections 354, 354(a), 323, 504, 506 of IPC.
3. It is the case of the prosecution that on 12.7.2016, the complainant had approached Mahatma Gandhi Police Station and had informed the police that her husband is missing for a very long time and she is searching

for him. According to her, she is residing with her two children. That she used to take her two children to the swimming pool everyday. That the present applicant who happens to be a press reporter had approached her. He was acquainted with her. He had informed her that he would help her to trace her husband. The prosecutrix used to meet the applicant regularly. According to her, on 12.7.2016, the applicant had called her near the swimming tank and had informed her that they should go to Vishrambaug Police Station and lodge a missing report. He had requested her to accompany him and therefore, she accompanied him on his motor-cycle under the impression that they were going to Vishrambaug Police Station. However, she realized that instead of that the applicant was taking her to Miraj. It is further alleged that on the way, he suddenly stopped the motor-cycle under a tree and asked her to accompany him to the hotel and when she refused to oblige, he had made an attempt to outrage her modesty. At that stage, two unknown persons had stopped on the way and had helped the complainant and therefore they had brought her to the police station where she lodged a report.

4. The learned counsel for the applicant submits that on the same day, i.e. on 12.7.2016, she had given an interview to the local channel "C News" and had spoken about the incident as is alleged in the first information

repoert.

5. The applicant herein had filed an application seeking pre-arrest bail before the Sessions Court. The complainant on learning about the pendency of the application, had filed an affidavit before the learned Sessions Judge alleging therein that in fact, the complainant had been ravished by the applicant on 12.7.2016. However, since she was passing through a traumatic condition, she could not report about the same.

6. It is pertinent to note that in the said affidavit, she has specifically stated that her husband has abandoned her and was living separately. There are inconsistencies in the first information report and the affidavit which go to the root of the matter.

7. The learned counsel for the applicant, upon instructions, submits that the applicant also happens to be a cable operator and he is on inimical terms with the persons running a parallel cable network and therefore the applicant had been falsely implicated.

8. Be that as it may, it prima facie appears that for six days, there was no allegation in respect of an offence punishable under Section 376 of IPC. That the complainant had hastily given an interview to the local channel without informing the police about the same and an affidavit is directly filed in the Sessions Court. There is no allegation in the affidavit that she

had disclosed about the said act of the applicant to the police and that they had shown hostile attitude. It is in these circumstances, the applicant deserves grant of pre-arrest bail.

9. It is made clear that the observations made hereinabove are prima facie in nature and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial since the observations are restricted to the application under Section 438 of Cr.P.C.

ORDER

- (i) The application is allowed.
- (ii) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall not tamper with the evidence.
- (iv) The applicant shall report to the concerned police station on every Sunday between 10 a.m. and 12 noon till the filing of the charge-sheet.

The application is allowed and stands disposed of.

(SMT.SADHANA S.JADHAV, J.)