

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.361 OF 2017

Prashant Shashikant Bhagat	Applicant
versus	
State of Maharashtra	Respondent

Mr.Subhash Jha i/by Samir Vaidya for Applicant.
Smt.Veera Shinde, APP, for State.
Mr.Vilas Datir, Police Inspector, Ghatkopar Police Station, present.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 27th June 2017

PC :

1. This is an application for anticipatory bail. The Applicant is apprehending arrest in connection with CR No.30/2017 registered with Ghatkopar Police Station, Mumbai under Sections 354, 323, 504 of Indian Penal Code. The first information report was lodged on 11th January 2017. The supplementary statement of the complainant was recorded and subsequently additional charges were levelled against the Applicant. The offences were thereafter registered under Sections 376, 377, 392, 420, 342 r/w Section 34 of Indian Penal Code and Section 66E of Information Technology Ac, 2000.

2. The prosecution case is that a complaint was lodged by the victim lady aged about 37 years whereby initially the offence came to be registered under the aforesaid provisions, which were subsequently altered to serious offences. It is alleged that the

Applicant and victim became friendly through facebook. In March-2014 when the Applicant visited her residence at night, he gave some fruit juice to her and thereafter she went to sleep. She subsequently realized on the next morning that the Applicant has taken obscene photographs as she had become unconscious after consumption of fruit juice. Further incident narrated in the supplementary statement revealed that from time to time the Applicant was demanding money from her and also demanding sexual favours. He committed sexual intercourse and unnatural sex with the victim. It is further alleged that the Applicant was blackmailing the victim on account of photographs. The victim thereafter was required to stay with the Applicant for ten days at Mumbai with his mother. The Applicant extracted money as well as her ornaments and gave those to his sisters. The Applicant got physical relations with her at her residence at Meerut and made shopping to the extent of Rs.1 lakh. He also extracted money by threatening her that he would upload the photographs on internet. The victim has daughter residing with her whereas there were some matrimonial differences between the victim and her husband. The husband came to know about the relationship and in June-2015, he took away the daughter from her custody. The victim had requested the Applicant to stop blackmailing by delivering the CD of photographs to her. However, the Applicant refused to do so. Hence, the complaint was lodged.

3. Learned advocate for the Applicant submitted that reading the FIR and supplementary statement as it is, it appears that there was consensual relationship between the Applicant and the victim. As per FIR and the supplementary statement, the Applicant and the victim had physical relationship on several occasions. The FIR was

lodged on 11th January 2017 alleging offences under Sections 354, 323 and 504 of Indian Penal Code. However, the supplementary statement was recorded on 14th January 2017 wherein serious allegations were made for the first time. It is submitted that the complainant has improvised her version with a view to implicate the applicant in serious crime. He further submitted that there was friendship between the Applicant and the accused and he had remitted the amount on several occasions to the account of complainant. He submitted that thereafter false and frivolous complaint was lodged against the Applicant.

4. Learned APP pointed out the allegations in the FIR and supplementary statement and submitted that the Applicant is involved in the said crime. She further submitted that mobile phone of the Applicant has not been recovered from him.

5. I have perused the FIR as well as documents which are annexed to this application. Apparently the relationship between the Applicant and the victim appears to be consensual. The complaint was lodged alleging offences of assault and outraging the modesty. However, subsequently in supplementary statement, the complainant has made serious allegations. There is no explanation as to how the complainant had not incorporated the said allegations in the complaint made by her on 11th January 2017. Taking into consideration the aforesaid facts and the nature of relationship of Applicant with complainant, which is spelt out in the FIR as well as supplementary statement, I do not find that this is a case where custodial interrogation of the Applicant is necessary. The Applicant can be granted relief under Section 438 of Cr.P.C. on certain conditions.

6. Hence I pass following order :

- (i) Anticipatory Bail Application No.361 of 2017 is allowed;
- (ii) Interim order dated 24th March 2017 is hereby confirmed;
- (c) The Applicant is directed to co-operate with the investigating agency and report to Investigating officer as and when called;
- (d) The Applicant should not tamper with the evidence;
- (e) The application is disposed of.

(PRAKASH D. NAIK, J.)

MST