

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 366 OF 2017

Geeta Shahikant Bhagat .. Applicant

Vs.

The Staet of Maharashtra & Anr. .. Respondents

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Mr.Umesh Mohite, Advocate for the Applicant.
Mr.V.V. Gangurde, APP for the Respondent – State.
Mr.Kushal Mor, Advocate for the Intervener.

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CORAM : PRAKASH D. NAIK, J.

DATED : JULY 17, 2017.

P.C. :

This is an application for anticipatory bail in connection with C.R. No.30 of 2017 registered with Ghatkopar Police Station. The First Information Report was registered on 11th January, 2017 at the instance of the complainant. The offences were registered under Section 323, 354 and 504 of the IPC. Subsequently, supplementary statement of the complainant was recorded by the police on 14th January, 2017. On the basis of the supplementary statement, additional charges were invoked under Sections 342, 376, 392 and 377 of the IPC.

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 son of the Applicant and victim became friendly through Facebook. In March 2014 when the co-accused (Applicant's son) 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 said accused 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 said accused 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 said accused was blackmailing the victim on account of photographs. The victim thereafter was required to stay with the him for ten days at Mumbai with applicant. He extracted money as well as her ornaments and gave those to his sisters. The said accused had physical relationship with her at her residence at Meerut and made shopping to the extent of Rs.1,00,000/-. The accused 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 said accused to stop blackmailing by delivering the CD of photographs to her. However, he refused to do so. Hence, the complaint was lodged.

3 The role attributed to the applicant is that she was instigated the co-accused Prashant Bhagat who was the son of the applicant. It is alleged that the gold ornaments were also handed over to the applicant. It is alleged that the applicant and the co-accused Prashant Bhagat had blackmailed the complainant for long period of time. The applicant preferred an application for anticipatory bail before the Sessions Court which was rejected by order dated 20th February, 2017. While rejecting the Sessions Court has observed that the allegations against the applicants are serious, though police have registered the offences punishable under Section 323 and 504 of IPC, the offences are like extortion, rape, unnatural offences etc. It is observed that the allegations against the applicant were of instigating Prashant Bhagat,

cheating the complainant etc. for which custody of the applicant is required for recovery of ornaments. On the aforesaid grounds, the application was rejected.

4 Learned advocate for the applicant submitted that the applicant has been falsely implicated in this present case. The version of the complainant is concocted. It is submitted that the complainant refers to the incidents which are of 2014 onwards. FIR was lodged on 11th January, 2017. It is submitted that the allegations were improvised in the supplementary statement of the first informant which was recorded on 14th January, 2017. It is further submitted that the son of the applicant who is attributed with the major role has been granted anticipatory bail by this Court vide order dated 27th June, 2017 passed in Anticipatory Bail Application No.361 of 2017. It is further submitted that the custodial interrogation of the applicant is not necessary.

5 Learned APP submitted that the additional charges were invoked on the basis of the supplementary statement of the complainant which was recorded by the police. It is submitted that the investigation is in progress. Learned advocate for the intervener strongly opposed the application for anticipatory bail.

It is submitted that the applicant and the co-accused Prashant Bhagat had acted in connivance with each other. Both of them have blackmailed the first informant for long period of time. It is submitted that the ornaments were entrusted to the applicant. She has all the time instigated the co-accused who has caused harassment to the complainant. He further submitted that the accused have committed serious crime and various penal provisions were invoked after recording the supplementary statement. He submitted that there was no improvisation in the supplementary statement. The complainant had forwarded a hand written statement to the police on 11th January, 2017 itself. However, police failed to take cognizance of all the offences and FIR was registered only for minor offences. It is further submitted that the other accused was granted anticipatory bail by this Court vide order dated 27th July, 2017 passed in Anticipatory Bail Application No.361 of 2017, the said order is relied upon by the applicant. He submitted that the applicant in ABA No.361 of 2017 had not complied the orders passed by this Court and did not implead the complainant as respondent and hence the advocate for informant could not appear on the date of hearing of the said application preferred by other accused. It is further submitted that the first informant had to make grievance to the

higher authority against the police for not taking proper action on her complaint. He also placed reliance upon the photographs which were taken at the police station. It is submitted that the applicant had executed a writing at the police station that she has agreed to return the belongings, CD, Jewellery and money etc. He also placed reliance upon certain WhatsApp messages and handwritten complainant dated 11th January, 2017. The compilation of the said documents was tendered in the Court which is taken on record.

6 I have perused the documents on record. Heard the submissions of the concerned parties. It is noted that the preliminary grievance of the complainant is that the co-accused Prashant Bhagat is son of the applicant and both have harassed her. The complainant has improvised her version in the supplementary statement wherein serious offences were registered. The grievance against the applicant is that she had instigated the co-accused who had caused harassment and committed several acts for which the offence is registered. It is apparent to note that the co-accused Prashant Bhagat has been granted anticipatory bail by this Court vide order dated 27th June, 2017. While passing the said order, it has been observed that

there is improvisation in the supplementary statement of the complainant. It is also observed that there appears to be relationship between the co-accused and the complainant. Learned APP on instructions submitted that no such writing as contended by the intervener has been executed by the applicant. Taking into consideration the role assigned to the applicant and the fact that the applicant is aged about 67 years, anticipatory bail can be granted to the applicant.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.366 of 2017
is allowed;
- (ii) The interim order dated 27th February, 2017 is
hereby confirmed;
- (iii) The applicant is directed to report the
Ghatkopar Police Station as and when called
for;

- (iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)