

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 500 OF 2017

Nandkumar Nivrutti Shinde

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Afshan Goghari Advocate for the Applicant.

Mr. M. G. Patil APP for the State.

Ms. Pratibha Gaikwad, PSI, Pant Nagar Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 22nd MARCH, 2017.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 442 of 2016 registered at Pantnagar Police Station for offence punishable under sections 354 and 509 of the Indian Penal Code.

2) It is the case of the prosecution that Mrs. Vijaya Neman had initially approached principal of Shivaji Technical School, Pantnagar and had informed the principal that her daughter had informed her that on 10/10/2016

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that the present applicant used abusive and obscene language against the girl students. That he checks the home work books only of the girl students and upon failure, he assaults them on their chest and passes lewd comments. The daughter of the complainant had objected to the said language, however, he did not pay heed to the same. He behaved in a similar manner with other girl students. All the girls have approached the principal of the school and the principal had assured that she would look into the matter by inquiring with Shinde Sir. It appears that the principal had also given a warning to the applicant that he should mind his language while talking to girl students. When the complainant had approached the principal, principal was kind enough to inform the complainant that they have received several complaints against the applicant and unless there is written complaint, they cannot take any action.

3) On 17/01/2016, complainant had taken the signatures of all the parents and guardians whose wards were similarly harassed by the present applicant. They were informed by the principal that she would send the applicant on leave. The principal had further informed that when they have another branch

of school, she would see to it that the applicant is transferred to another school. Upon realising lack of sensitivity on the part of principal, the complainant had approached the police and lodged a report. On the basis of which crime no. 442 of 2016 is registered.

4) The learned counsel for the applicant at the threshold submits that custodial interrogation is not necessary. That the applicant is highly qualified and has obtained double post graduation. It is also submitted that there is an inordinate delay in lodging F.I.R. and there is no plausible explanation for the same. It is further submitted that the language alleged to have been used by the applicant is not abusive nor obscene and therefore, applicant deserves pre-arrest bail.

5) It is pertinent to note that along with the application seeking pre-arrest bail, applicant has filed an application purportedly written by the complainant to the Commissioner of Police, Mumbai, The D.C.P. Zone 7, The Asst. Commissioner of Police, Ghatkopar Division, The Senior Inspector of Police, Pant Nagar Police Station, wherein the complainant has submitted that F.I.R.

is lodged due to misunderstanding created by the neighbours in the vicinity and that she has become emotional and lodged the aforesaid complaint. It is also written in the said application that the applicant has done nothing to her daughter and only because of misunderstanding, the report is lodged. Upon query made by the court, Investigating Officer has submitted that the said police station i.e. Senior Inspector of Police, Pant Nagar Police Station has not received such communication from the complainant. Upon query made by this Court, the learned counsel for the applicant submits that copy of this communication was given to the wife of the applicant by the complainant. It is argued before the Special Court that the applicant had no criminal antecedents and that on 14/10/2016, he had informed the Commissioner of Police that he was being harassed because he belonged to scheduled caste.

6) The learned APP has placed on record the F.I.R. on the basis of which crime no. 65 of 2007 is registered against the applicant at Tilak Nagar Police Station on 16/03/2017 for offence punishable under sections 354 and 506 of the Indian Penal Code wherein the report was lodged by one Ms. 'X' who was studying in 10th standard in Aadarsh Vidyalay at Chembur. It appears that he

was terminated by the said school. He had approached School Tribunal and has been reinstated with full back wages by an order dated 17/04/2012.

7) Applicant has no respect for women. There are criminal antecedents of similar nature. It is unfortunate that the school had only assured the complainant that they would ask him to proceed on leave or transfer him to another branch of school. The conduct of the principal of the said school was a reflection lack of sensitivity, she had no intention to take any coercive action against the applicant. In fact, the principal should have approached the police forthwith, giving no opportunity to the applicant to raise the ground that there is an ordinate delay in lodging the F.I.R. It could be an offence under section 202 of the Indian Penal Code. It is further seen from the records that F.I.R. was lodged in November 2016. Anticipatory bail application was rejected by the Special Court on 06/01/2017 and since then applicant is evading arrest and today, when he has approached the High Court, a communication is placed on record showing that complainant has not only exonerated him but has stated that the applicant has not done anything to her daughter. It is apparent on the face of record that after rejection of the

application by the Special Court, applicant has indulged into tampering with evidence.

8) In the facts of the case, applicant does not deserve discretionary relief under section 438 of Code of Criminal Procedure, 1973. Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)