

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.971 OF 2017

Satish Sakharam Mangle

Applicant

versus

The State of Maharashtra

Respondent

Mr.Satish Maneshinde i/by Laxshmi Raman for Applicant.

Mr.A.R.Kapadnis, APP, for State.

Mr.Sharif Shaikh for intervenor.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 13th June 2017

PC :

1. This is an application under Section 438 of Code of Criminal Procedure, 1973. The Applicant is apprehending arrest in connection with CR No.681 of 2016 registered with Kashimira Police Station for offence under Sections 376, 417, 506 of Indian Penal Code.

2. The prosecution case is that the victim is aged about 42 years, met the Applicant as a producer. She was informed by the Applicant that he is directing a film. She requested him for casting. The work of casting was going on in Omkar Film Studio, Mumbai. It was further alleged that it was agreed between the complainant and the Applicant that she will receive 25% commission. Thereafter in the month of November-2014, the work of audition had started. Since

then they became close friends. It is alleged that in December-2014, on the call of Applicant-accused, she went to Prasad Hotel, Mira Road. The Applicant established sexual relationship with her in the said hotel. Thereafter said relations continued. In the month of January-February-2015, both of them had been to Goa for holiday. They stayed there for five days and again had sexual relations. Thereafter both of them returned to Mumbai by flight. In July-2015, the accused again had established sexual relationship with the complainant at Sahara Star Hotel, Andheri on the promise of marriage. When she inquired with the accused as to when he is going to marry with her, he stated that it will take some time. The Applicant did not give her any work. Thereafter the Applicant stayed with the complainant in Trident Hotel and Sofitel Hotel and had sexual relations with her. After June-2016 the accused started avoiding the complainant. His mobile was switched off. On 28th November 2016 the complainant noticed that two persons were chasing her. They threatened her. One of them had given a phone on which the Applicant had a talk with her. She was threatened by the Applicant of dire consequences. He also threatened that the photographs about her relationship will be posted on facebook. Thereafter the present complaint was lodged with Malvani Police Station, which was transferred to Kashimira Police Station.

3. Learned advocate for Applicant submitted that he has been falsely implicated in this case. He submitted that the Applicant had dispute with one IAS officer against whom the Applicant had lodged several complaints. It was further submitted that the wife of Applicant had lodged a complaint against said IAS officer alleging

that he had threatened that the Applicant would be falsely implicated in criminal case. It is, therefore, submitted that the complainant is acting in connivance with the said IAS officer and had thereby lodged this false complaint against the Applicant. It is further submitted that taking the case of the complainant as it is, it does not make out any offence under Section 376 of IPC. The allegations spelt out in the complaint are in the nature of consensual relationship between the Applicant and the complainant. He further submitted that he is willing to co-operate with the investigation. He submitted that in the facts and circumstances of this case, custodial interrogation of the Applicant is not necessary.

4. Learned APP opposed the application for anticipatory bail. He submitted that the case made out by the Applicant vis-a-vis the false implication at the instance of an IAS officer, is devoid of merits. He submitted that those complaints which were lodged by the Applicant against the IAS officer, has no connection with present offence. He submitted that the complainant has clearly attributed overt act to the Applicant in this case. It is submitted that the Applicant had sexual relationship with the complainant on false promise of marriage. He further submitted that the Applicant has cheated a young girl by making false promise. He submitted that the Applicant has married twice. The conduct of the Applicant is required to be deprecated and he is not entitled to any relief.

5. Learned advocate for the intervenor-original complainant submitted that the submissions made by learned counsel for Applicant has no basis as the motive attributed for false implication

has no connection with present FIR. He submitted that the FIR clearly makes out an offence under Section 376 of IPC. According to him, the amended provisions of Sections 375 and 376 of IPC clearly makes out the ingredients in the FIR to constitute an offence punishable under Section 376 of IPC. He placed reliance upon judgment of this Court in the case of **Sachin Tukaram Muneshwar and others Vs. The State of Maharashtra**¹. He, therefore, submitted that the Applicant is not entitled for grant of any relief under Section 438 of Code of Criminal Procedure, 1973.

6. I have perused the FIR and considered the submissions made by rival parties. On perusal of the FIR it is apparent that the complainant had sexual relationship with the Applicant-accused on several occasions. Although it is alleged that there was false promise of marriage, the complainant who is aged about 22 years, had repeated sexual relationship with the Applicant. The allegation in the FIR is that the Applicant had threatened of posting the recordings on facebook while referring to the incident of sexual relationship. The complainant has nowhere stated that there was any recording done by the Applicant at point of time earlier. However, I am not impressed by the submission that the Applicant has been implicated on account of his disputes with IAS officer or that the complainant had connived with the said IAS officer. Be that as it may, considering the nature of allegations, I am of the opinion that custodial interrogation of the Applicant is not necessary. The application is considered for grant of anticipatory bail. I am not considering whether the offence is made under Section 376 of IPC or not.

¹ 2015(4)-Bom.C.R. (Cri) - 506

However, considering the nature of allegations and the fact that repeatedly the complainant had sexual relationship, the application for anticipatory bail can be allowed on certain conditions.

7. Hence, I pass following order :

(i) Anticipatory Bail Application is allowed;

(ii) In the event of arrest of the Applicant in connection with CR No.681 of 2016 registered with Kashmirira Police Station for offence under Sections 376, 417, 506 of Indian Penal Code, the Applicant be released on bail on furnishing PR bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

(iii) The Applicant is directed to report to Kashmirira Police Station once in a week on every Monday between 11.00 a.m. and 2.00 p.m. till filing of charge sheet;

(iv) After filing of the charge sheet, the Applicant shall report Kashmirira Police Station once in a month on every third Monday, between 11.00 a.m. and 2.00 p.m..

(v) The application stands disposed of.

(PRAKASH D. NAIK, J.)

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