

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1091 OF 2017

Irfan Shaikh	Applicant
versus	
State of Maharashtra	Respondent

Mr.J.S.Kini i/by Suresh Dubey for Applicant.
Smt.J.S.Lohokare, APP, for State.
PSI Mr.Gaikwad, Oshiwara Police Station, present.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 27th June 2017

PC :

1. This is an application for anticipatory bail in connection with CR No.193 of 2017 registered with Oshiwara Police Station for offences under Sections 354(A), 354(D), 506 of Indian Penal Code and under Section 12 of The Protection of Children from Sexual Offences Act.

2. The prosecution case is that the complainant is aged about 17 years. The accused is residing in the same area and carrying on his business from the shop premises. It is alleged that whenever the complainant used to pass in front of the shop of accused-Applicant, he used to pass lewd remarks against the complainant. It is also alleged that the Applicant used to threaten the complainant of dire consequences. In December-2016 at about 5.00 p.m., the complainant was wearing burkha and passing through the shop premises of the Applicant. At that time the Applicant told her that

she should marry him and she should withdraw the case lodged against him. He also stated that he is not scared of police. Thereafter the complainant was again passing through the same way by wearing burkha and at that time also the Applicant passed lewd remarks against her and told her that she should conceive a child from him and that they will kill the child. The complainant got scared and left the spot. Thereafter on 18th May 2016 at about 4.00 p.m., the complainant was proceeding opposite the shop of Applicant wearing burkha, however, her face was open. The Applicant-accused was sitting in his shop and he again abused the complainant. The complainant questioned the Applicant about his conduct. The Applicant stated that he will kidnap the complaint and would assault other family members of the complainant. Hence, the complainant left the place and lodged the FIR. The FIR was lodged on 30th May 2017.

3. Learned advocate for the Applicant submitted that the Applicant has been falsely implicated in the crime. He submitted that on the earlier occasion also, the complainant had lodged similar FIR against the Applicant on 21st August 2014. The Applicant was granted anticipatory bail by this Court. He submitted that on account of rivalry, the present FIR has been again lodged against the Applicant. He submitted that the mother of the Applicant had lodged an FIR with Oshiwara Police Station on 11th August 2014 against some persons. He submitted that father of the complainant had visited the Applicant and threatened him to withdraw the said complaint. The Applicant, therefore, lodged a complaint with Oshiwara Police Station on 21st August 2014, which was treated as non-cognizable complaint. It is submitted that on the very ground,

the Applicant was granted anticipatory bail by this Court vide order dated 26th September 2014. It is submitted that the complainant has lodged second complaint on account of enmity between the Applicant and family of complainant. He submitted that in the FIR the complainant had referred to two incidents of December-2016 wherein she was wearing burkha. It is submitted that it is impossible for a person to identify a person wearing burkha. He submitted that no complaint was lodged after the said incidents. The third incident is of 18th May 2017 which is referred to in the present FIR and thereafter the FIR was registered. It is, therefore, submitted that on account of false implication, the Applicant should not be subjected to custody. He, therefore, submitted that he is ready to co-operate with the investigation and would comply the conditions if imposed by this Court.

4. Learned APP opposed the application. She submitted that the Applicant has been repeatedly committing the alleged acts. It is submitted that in the earlier point of time also, an FIR was registered against the Applicant. She submitted that in the FIR lodged by mother of the complainant, the relations of the Applicant were not implicated as accused. It is, therefore, submitted that the Applicant who has been committing repeated acts, should not be granted anticipatory bail.

5. Perused the FIR and the documents annexed to the application. I have also perused the order granting anticipatory bail passed by this Court. It is apparent that at the earlier point of time, the Applicant was granted anticipatory bail on the ground that the FIR was lodged by the complainant to deter his mother from

prosecuting the complaint filed on 11th August 2014. Taking into consideration the facts and circumstances, I am inclined to grant the application for anticipatory bail on certain conditions.

6. Hence, I pass following order :

(i) Anticipatory Bail Application is allowed;

(ii) In the event of arrest of the Applicant-accused in connection with CR No.193 of 2017 registered with Oshiwara Police Station, he may be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The Applicant shall not reside or carry on business within the locality of Patliputra Nagar;

(iv) The Applicant is directed to report Oshiwara Police Station once in a week on every Saturday between 11.00 a.m. and 1.00 p.m. till filing of charge sheet and thereafter as and when called for;

(v) The application is disposed of.

(PRAKASH D. NAIK, J.)