

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2034 OF 2017

Deepak Rajendra Mishra ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Ms.Pracheta Rathod, Advocate for the Applicant.

Ms.J.S.Lohokare, APP for the Respondent/State.

Ms.Archana P.Shrivastav, PI, Kolsewadi Police Station, Kalyan, is present in person.

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CORAM : A.M.BADAR J.

DATED : 21th NOVEMBER 2017.

P.C. :

1 The applicant/accused in Crime No.I-396 of 2017 registered with Kolsewadi Police Station for offences punishable under Sections 376, 504, 506 read with Section 34 of the Indian Penal Code, by this application, is seeking pre-arrest bail.

2 Heard the learned Advocate appearing for the applicant/accused. She drew my attention to the fact that the First Informant is married and matured lady of 45 years of age having two children. The learned Advocate for the applicant/accused further drew my attention to the fact that the

incident allegedly took place in September and October 2015 and averment of the First Informant shows that because of conception due to the incident, she was admitted to the hospital in November and December 2015. With this, it is argued that the FIR came to be lodged on 08/09/2017 and that too when the applicant had reported to police that the First Informant is giving threats of extortion of amount of Rs.4,00,000/- to him.

3 The learned Additional Public Prosecutor opposed the application by contending that custodial interrogation of the present applicant is warranted because woman named Kiran is not apprehended.

4 I have carefully considered the rival submissions and also perused the entire case diary.

5 The FIR itself shows that First Informant Archana is married woman aged about 45 years having two children. She was visiting the present applicant as her neighbour named Kiran had given address of the present applicant to her way back in September 2015. The FIR further shows that the husband of the First Informant was addicted to the liquor. The First Informant reported that the alleged incident of rape on her took place in September 2015 to October 2015. She has also reported in the FIR itself that when she was visiting the present applicant, one of

her son always accompanied her. The First Informant further reported that because of conception due to alleged rape she became pregnant and was admitted to the hospital from 26th November 2015 to 2nd December 2015. With this allegation, the report is lodged on 08/09/2017, which has resulted in registration of crime in question.

6 It is also seen that the present applicant had lodged report to police that the First Informant was regularly extorting the amount from him and ultimately, she as well as her husband had demanded an amount of Rs.Four Lakh from him with a threat that if the amount is not paid, they will lodge report of commission of rape against him.

7 So far as a lady named Kiran is concerned, the averment in the FIR against her is to the effect that said Kiran has given address of the present applicant to the First Informant.

8 In the wake of this facts situation, considering the nature of evidence against the present applicant in respect of commission of alleged offences, I am of the considered opinion that his custodial interrogation is not warranted. As such, the Order :

- (i) The application is allowed.

- (ii) In the event of his arrest, the applicant/accused in Crime No.I-396 of 2017 registered with Kolsewadi Police Station for offences punishable under Sections 376, 504, 506 read with Section 34 of the Indian Penal Code be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.
- (iii) As a condition of this Order, the applicant shall not tamper with the prosecution evidence.
- (iv) The applicant/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court or to the Police Officer.
- (v) As a condition of this Order, the Applicant/accused shall attend the concerned Police Station on 25th November 2017 in 2nd December 2017 between 11.00 a.m. to 1.00 p.m. and he should cooperate with the Investigator.
- (vi) In addition, the applicant/accused to attend the Investigating Officer as and when directed by written notice for the purpose of investigation.

(A.M.BADAR J.)