

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

ANTICIPATORY BAIL APPLICATION NO. 163 OF 2018

Sudhir Rajendra Bhaval.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Ujwal R. Agandsurve, advocate for Applicant.

Mrs. P.P. Shinde, APP for State.

Mr. R.B. Aware, API, Vijapur Naka Police Station, Solapur City.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 29, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 562 of 2017 registered at Vijapur Naka Police Station for offence punishable under section 354d, 323, 504, 506 of the Indian Penal Code.

3 It is the case of the prosecution that on 14/10/2017 Ms. X lodged a report at the police station alleging therein that the applicant was residing in the neighbourhood. He was in the habit of making obscene gestures towards her. Whenever he used to ply on rickshaw, he used to indulge in stalking her. She lodged a report at the police station against her on 21/3/2016 in which the applicant was granted bail by the learned Magistrate.

4 That on 14/10/2017 at about 1.30 p.m. to 2 p.m. she was proceeding on her Aactiva Motor Cycle, the applicant had stopped her and then had asked her for her cell phone and had winked at her. Her brother saw her talking to the applicant and had questioned as to why she was talking to the applicant and at that time, she had disclosed that he was soliciting her cellphone number and had made obscene gestures at her. Thereafter, Ms. X lodged a report at the police station.

5 The learned APP submits that despite the fact that the victim had complained to the police station on 21st March, 2016, there is no improvements in his behaviour and he continues to stalk her and therefore, he does not deserve discretionary relief under section 438 of the Code of Criminal Procedure, 1973.

6 As against this the learned Counsel for the applicant submits that the applicant is married man. Initially, the applicant and the complainant were in intimate relations which was not liked by her family and therefore, the applicant had shifted to Pune and he is residing in Bibe Wadi, Pune alongwith his family. According to the learned Counsel for the applicant, it is apparent from the recitals of the FIR that the complainant was in fact having dialogue with the applicant and the same was not liked by her brother and therefore, the report is filed by her.

7 Upon perusal of the first information report, this Court is of the opinion that in the present case, custodial interrogation would not be

imperative and the applicant would be granted pre-arrest bail upon imposing certain stringent conditions.

8 However, the observations are prima facie in nature and restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

9 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) In the event of arrest in Crime No. 562 of 2017, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more solvent sureties in the like amount.

(iii) The applicant shall report to Bibe Wadi Police Station on every Sunday between 10.30 a.m. to 1 p.m. Upon failure to attend any two consecutive dates, the prosecution would be at liberty to seek cancellation of bail.

(iv) The applicant shall not tamper with the evidence.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)