

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

ANTICIPATORY BAIL APPLICATION NO. 200 OF 2018

Madhuri Prakash Sontakke	... Applicant.
Versus	
State of Maharashtra.	... Respondent.

Mr. Kuldeep U. Nikam, advocate for Applicant.

Ms. Veera Shinde, APP for State.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 1, 2018**

P.C.:

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

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending her arrest in Crime No. 22/2018 registered at Karad City Police Station, District-Satara for offence punishable under section 384 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 4/1/2018 Ashok Babarao Patil lodged a report at the police station alleging therein that in the year 2014 he had met the present applicant who was working as a nurse. They were communicating with each other on the cell phone. Thereafter, they had developed intimate relations. They had even established physical relations during the period 2014 to 2015. That the applicant used to call him whenever she was free and therefore, subsequently, he started avoiding her calls. She had raised quarrels with him in front of his medical shop. She was insisting upon him to maintain relations and also threatened that else she would commit suicide. He had also lodged a report at Karad Police Station.

4 In February, 2017 she had threatened that she would file a case under the Atrocities Act against him and had demanded a flat and Rs.10 Lakhs. On 8/5/2017 she had made 84 frantic calls in a day. On 2/6/2017 he had learnt from the newspaper that an offence under section 376 of the Indian Penal Code and under the provisions of

Atrocities Act is filed against him at Satara Police Station. He was granted bail by the High Court. Thereafter, he had filed a Petition(WP No. 32133/2017) under section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR. The present applicant had filed an affidavit and had submitted that she had no objection to quashing of FIR and that she would withdraw all her allegations. She had accepted the amount of Rs. 7,15,000/-. However, thereafter she again started contacting him. Upon his evading calls, she had approached the Activists of Bhumata Brigade and they had started calling upon him and threatening him that they would take women's rally to his house, if he refuses to continue his relations with the present applicant. That Madhuri Tonappe had called him at 8 p.m. asking him to meet the present applicant immediately as she is standing with a bottle of poison in front of the police station and if he would not meet, she would consume the same and implicate him. Being fed up of the threats extended by the activist of Bhumata Brigade and the present applicant, the complainant consumed Rogar insecticide and was admitted in the

hospital. He regained consciousness on 3/1/2018 and on 4/1/2018 he lodged the FIR.

5 The learned Counsel for the applicant submits that the only request of the applicant was that the complainant should meet her. That she is working in a public health center. The contention of the earlier FIR filed by the applicant are reiterated. However, this Court cannot be oblivious that the applicant herein had in fact, withdrawn the said case.

6 It is further contended that since initial stage, the applicant was very serious about her relations with the complainant and he had promised that he would get married to her. It is contended that in fact, the applicant had given a handloan of Rs. 5,48,000/- to the complainant. However, she had received Rs. 7,15,000/- at the time when the FIR was quashed. At this stage, it is alleged that the applicant had filed an affidavit in Writ Petition No. 3133 of 2017 only because the complainant had given her false assurance. That the

applicant had written a letter to Mrs. Tripti Desai of Bhumata Brigade demonstrating therein that earlier FIR was not pressed only because of the pressure of the complainant. And that he had spread rumours that the applicant had received Rs. 10 Lakhs for filing the affidavit. She had sought justice from Bhumata Brigade, more particularly, Trupti Desai and her associates.

7 In fact, the relations ought to have been put to an end after quashing of the FIR. The applicant as well as activists of Bhumata Brigade under the guidance of Trupti Desai had no business to insist upon the complainant to continue his relations. At the time when the FIR was quashed i.e. on 8/8/2017 the applicant was present before the Court. She was put in the box and questioned by the Hon'ble Division Bench and had specifically stated that the contents of the affidavit are correct and she has affirmed the said affidavit of her own free will and volition. It is also observed by the Division Bench that the Petitioner and the present applicant had entered into consensual

relationship and hence, the Court had arrived at conclusion that offence under section 376 Indian Penal Code has not been made out.

8 In fact, the very initiation of criminal proceedings under section 376 of the Indian Penal Code was unwarranted when they had entered into consensual relationship. The applicant had continued to harass the complainant even thereafter. She was taking recourse to parallel proceedings and pressurising through the activists of Bhumata Brigade. The application filed by the said activists seeking pre-arrest bail is rejected by an order dated 1/2/2018 in ABA No. 199/2018. In view of the above mentioned facts and circumstances and upon perusal of papers of investigation, this Court is of the opinion that the applicant herein does not deserve grant of pre-arrest bail.

9 However, it is made clear that the observation made hereinabove are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and the trial court shall not be

influenced by the same at the time of quashing of FIR or discharge application or at the time of trial.

10 Hence, the application being sans merits stands rejected. The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)