

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.224 OF 2018

Naveen Kumar Sharma ... **Applicant**

V/s.

Priya Aniket Sagavkar Alias Priya

Rukmangad Bawne and anr. ... **Respondents**

Mr.Naveen Kumar Sharma applicant in person.

Mr.S.V. Gavand, APP for the respondent/State.

CORAM : A.M.BADAR J.

DATED : 16th AUGUST 2018.

P.C. :

1. Heard the applicant in person at sufficient length of time.
2. Perused the papers tendered across the bar by the applicant.
3. This is an application purported to be one under Section 340 read with Section 195 of the Criminal procedure Code moved by the applicant alleging commission of offence punishable under Sections 177, 181, 193, 196, 199, 200, 203, 209 of the Indian Penal Code. The application is directed against one Priya Aniket Sagavkar alias Priya Rukmangad Bawne.

4. It is argued by the applicant that respondent no.1 Priya Sagavkar has committed offences stated by him in the application, during the course of submitting the application for Anticipatory Bail by making averments therein to the effect that respondent no.1 / Priya Aniket Sagavkar was working as General Counselor and was successfully doing practice since last two years at Ichalkaranji. The applicant herein submitted that said Priya Sagavkar was not working as General Counselor but she was infact working as Training Instructor in Kundal Academy of Development, Administration and Management (Forests), Kundal, Tahasil Palus, District Sangli. My attention is drawn to the Certificate dated 26th July, 2016 as well as to the statement dated 15th November, 2016 by the applicant for substantiating his contention that action under Section 340 of the Criminal Procedure Code needs to be taken against respondent Priya Sagavkar. It is further argued that similar action was taken against her by the learned Judge of Family Court as well as the learned Sessions Court .

5. I have carefully considered the submissions so advanced. I have also perused the Judgment ***dated 17th April, 2017 in Writ Petition (St.) No.4899 of 2017 in the matter of Union of India and ors. Vs. Haresh Virumal Milani.*** This Judgment was pressed in service by the

applicant in order to contend that even without issuing notice to respondent no.1 Priya Sagavkar, action under Section 340 of the Criminal Procedure Code needs be taken against her.

6. It is seen from the record that on the basis of report lodged by the applicant against accused persons, Crime No. 20 of 2016 for offences punishable under Sections 192, 467, 469 and 471 read with Section 34 of the Indian Penal Code came to be registered against respondent no.1 Priya Sagavkar as well as other accused persons. Her application for Anticipatory Bail came to be rejected vide order dated 9th September, 2016 by the learned Additional Sessions Judge.

7. It is also seen from the record that respondent no.1 Priya Sagavkar then moved an application for Anticipatory Bail before this Court which came be registered as Anticipatory Bail Application No.1740 of 2016. The same was heard alongwith similar applications filed by the co-accused and by common order dated 14th December, 2016, all those applications came to be allowed by this Court (Coram : SMT.SADHANA S. JADHAV, J.). Respondent No.1 Priya Sagavkar as well as other accused were directed to be released on bail, in the event of their arrest by this Court.

8. In the memo of application moved by respondent no.1 Priya Sagavkar seeking Anticipatory Bail in Crime No.20 of 2016 registered with Shivaji Nagar Police Station, Pune at the instant of present applicant, she has stated that she is working as General Counselor and successfully doing practice since last two years at Ichalkaranji. She has further stated that she is M.A. in Counseling Psychology and Neurolinguistic Programming Practitioner. She also stated that she is relative of Mrs.Dipti Naveen Sharma, wife of the applicant herein. She has stated that she was working in Shushrusha as a General Counselor and she used to issue report under authorization of Shushrusha Counseling and Guidance Center.

9. Perusal of order dated 14th December, 2016 passed by this Court granting Anticipatory Bail to respondent no.1 Priya Sagavkar in Crime No.20 of 2016 shows that the Anticipatory Bail was not granted with the reason that she was working as General Counselor at Shushrusha Counseling and Guidance Center. This Court had granted Anticipatory Bail to respondent no.1 Priya Sagavkar considering papers of investigation and role attributed to her in the crime. These observations are found at paragraph 4 of the order granting Anticipatory Bail Application which reads thus;

“4) Taking into consideration the papers of investigation and the role attributed to the present applicants, this court is of the opinion that the applicants deserve to be granted pre-arrest bail. However, it is made clear that observations made herein above are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R. discharge application or at the time of trial.”

In paragraph 2 of of the said order, this Court has observed that the applicant therein had intervene to pacify and bring about an amicable settlement between the couple.

10. Perusal of Section 340 of the Criminal Procedure Code makes it clear that the legislature in its wisdom has thought it fit that before initiating any action for the offence of forgery or in respect of a document produced or given in evidence in a proceedings which are alleged to be forged, the Court has to apply its mind to record the finding whether further probe into the matter is necessary in the interest of justice and apart from that whether it is justified and expedient to do so. The formality of inquiry as contemplated under Section 340 of the Criminal Procedure Code is not an empty formality.

In the case in hand, respondent no.1 Priya Sagavkar being relative of the wife of the applicant had intervened in the matrimonial dispute between parties and this Court vide order dated 14th December, 2016 taking into consideration papers of investigation and role attributed to respondent no.1 herein was pleased to grant Pre-arrest bail to her.

11. In this view of the matter, I do not feel it expedient and necessary in the interest of the justice to make inquiry under Section 340 of the Criminal Procedure Code against respondent no.1 Priya Sagavkar and therefore the order;

:: ORDER ::

The application is rejected.

Vina
Arvind
Khadpe

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signed by
Vina Arvind
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Date:
2018.08.22
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(A.M.BADAR J.)