

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

ANTICIPATORY BAIL APPLICATION No. 859 OF 2018

Siddharth Kailsas Naikare

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi for Applicant

Mr. S.R. Agarkar -APP for the State

Mr. Pradip Jadhav- Police Inspector – present in Court.

CORAM : SMT. BHARATI H. DANGRE , J.

DATE: MAY 09, 2018

VACATION COURT.

P.C.

1. The Applicant has approached this Court seeking anticipatory bail and also challenging the order dated 19th April, 2018 passed by the Additional Sessions Judge, Khed-Rajgurunaga, District Pune, thereby rejecting his application. A complaint was filed in Khed Police Station, Pune Rural, Pune by the prosecutrix. On the basis of which, an FIR being C.R. No. 124/2018 came to be registered for the offences punishable under Section 376 and 66-C and 66-D of the Information Technology Act, 2000.

2. The case of the prosecutrix as stated in the complaint is that between period commencing from 25th November, 2017 to 27th March, 2018 the

Applicant- Accused committed forcible sexual intercourse against her will. It is the specific case of the prosecutrix that the Applicant- Accused had taken certain photographs on his mobile and he continued to have the sexual intercourse with the victim on the pretext and threat of making the photographs viral. On the basis of her complaint, an FIR was registered and the statement of the prosecutrix was recorded. Investigation was carried out and the lodge, in which the applicant is alleged to have taken the prosecutrix is searched and the visiting register of the said lodge, have also been taken into custody by the investigating agency. The prosecutrix was also sent for the medical examination.

3. The learned counsel for the Applicant would submit that the complaint lodged by the prosecutrix is false and baseless and he has been falsely implicated in the said crime in order to give a counter blast to the FIR lodged by the father of the Applicant against one Gulab Naikre, who is the father-in-law of the Complainant. He would submit that the investigation in the said offence is complete and there is no need for any custodial interrogation. He would also submit that the Complainant is a married woman and, therefore, the medical evidence brought on record is of no significance.

4. Heard the learned counsel for the Applicant and the learned APP for the State. I have perused the papers produced by the learned APP for the State. On perusing of the entire material on record, it can be seen that the investigation is in progress and as per the Learned APP, the mobile of the Applicant is to be recovered and he is also required to be subjected to medical examination. The learned APP for the State opposes the application on the ground that unless and until the applicant is taken into custody, it is not possible to complete the investigation.

5. The Applicant is young boy of 22 years and he is taking education. The Applicant undertakes to co-operate with the investigating officer and he also undertakes that he would attend the police station as and when called and would not leave the territorial limits of Khed Police Station without permission of the Investigating Officer. He also submits that he is ready to undergo the medical examination, if permits by the Investigating Officer.

6. In the aforesaid circumstances, I am inclined to allow the said application and pass the following order:

ORDER

- (i) In the event of arrest by the Khed Police Station in reference to C.R. No. 124 of 2018, the Applicant be enlarged on bail by executing a

P.R. Bond of Rs.25,000/- and by furnishing a solvent surety in the like amount;

- (ii) The Applicant is directed to attend the Khed Police Station, Pune Rural, Pune at 11.00 a.m. everyday for a period of one week and, thereafter, from time to time as directed by the Investigating Officer;
- (iii) The Applicant is directed to abide by all the instructions issued by the Investigating Officer and would co-operate with the Investigating Agency;
- (iv) The Applicant would not create undue pressure on the prosecutrix and the witnesses, whose statements have been recorded by the Investigating Officer and would not tamper with the evidence, in any manner;
- (v) The Applicant would surrender the mobile phone/ instruments which was put to use for taking the alleged photographs to the Investigating Officer forthwith.

Criminal application for anticipatory bail is allowed in the aforesaid terms and disposed of accordingly.

[BHARATI H. DANGRE, J.]