

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

ANTICIPATORY BAIL APPLICATION NO. 2066 OF 2018

Pratik Pramod Deshmukh & Ors	... Applicants
Vs.	
The State of Maharashtra	... Respondent

...

Ms. Sushma T. Mishra for the applicant.
Mr. R.M. Petha, APP for the Respondent-State.
Mr. B.N. Auti, Police Inspector, Nerul Police Station is present.

...
CORAM : PRAKASH D. NAIK, J.
DATE : 6th OCTOBER, 2018.

P.C.

1. The applicants are apprehending arrest in CR No. I-330 of 2018 registered with Nerul Police Station. FIR was lodged on 2nd September, 2018 for offences punishable under Section 354, 323, 504, 506 read with 34 of Indian Penal Code. Applicants preferred an application for anticipatory bail before the Sessions Court which was rejected by order dated 26th September, 2018.
2. Case of the prosecution is that three persons were driving Mercedes car, one of them was on the driver's seat, while two other were seating on the back seat of the car. The complainant and her friend were on Activa Scooter. There was quarrel between the persons in the car and the complainant. It is alleged that

persons seating in the car abused the complainant in filthy language and also used obscene words and questioned her whether she cannot drive the scooter properly. Thereafter when the car had slowed down at the speed breaker, the complainant and her friend questioned the inmates of the car as to why they have abused them. At that time again said persons abused the complainant and her friend. After proceeding further while the complainant was near Nerul Station the accused pulled the hand of the complainant and assaulted her and went ahead. Thereafter, they get down from the vehicle and kicked on the scooter of the complainant, as a result of which the complainant's friend fell down. Accused fled away from the place of incident. FIR was lodged on the next day of the incident.

3. Learned counsel for the applicants submit that the applicants are falsely implicated in the crime. There is no evidence to establish their identity as the person who were driving the vehicle. It is further submitted that the offences as alleged are not made out against the applicants. During the pendency of application before the Sessions Court, they were granted interim protection and applicants have attended the police station. It is submitted that Section 354 of Indian Penal Code is not applicable in this

case. The allegations spelt out in the First Information Report does not make out any offence under the said penal provision. It is submitted that there was no intention to commit the offence of outraging modesty of women. In the circumstances, the custodial interrogation of the applicants are not necessary.

4. Learned APP submitted that the incident can be divided into four parts as accused had repeatedly harassed the complainant and her friend on the day of incident. They abused the victim, assaulted her, pulled her hand and kicked the vehicle driven by the complainant. During pendency of application before the Sessions Court, the applicant had attended the police station but they have not co-operated with the investigation. They denied their involvement. It was also stated by them that the car does not belong to them. The statement made by the accused during the course of investigation were misleading. The police had conducted the investigation which shows that the car belongs to the father of the applicant No.3 which is evident from the statement of the witnesses who were working with the father of the applicant No.3. The accused had denied their connection with the Mercedes car which was driven by them. Considering the conduct of the applicants, their application be rejected.

5. I have perused the First Information Report. The alleged incident had occurred on 1st September, 2018 at about 9 p.m. The accused and the complainant were driving their respective vehicles. Apparently, there was a quarrel between both the parties. Accused had allegedly abused the complainant in filthy language and also uttered objectionable words. The complaint also indicate that one of them pulled the hand of the complainant. The offences under Sections 323, 504 506 are bailable in nature. The only offence which is non-bailable is offence under Section 354 of Indian Penal Code. The said provision has been invoked on the ground that one of accused had pulled the hand of complainant. There is no allegation of sexual assault. It is debatable whether the offence under Section 354 would be attracted in this case. Considering the aforesaid circumstances, the custodial interrogation of the applicants is not called for. Hence, I pass the following order.

ORDER

i) In the event of arrest of applicants in connection with CR No. I-330 of 2018 registered with Nerul Police Station, the applicants be released on bail on furnishing P.R. Bond in the sum of Rs.20,000/- each with one or two sureties in the like amount;

- ii) The applicants shall attend the concerned Police Station as and when called for by the Investigating Officer between 10.00 a.m. to 12 noon till filing of chargesheet;
- iii) The applicants shall not tamper with the evidence and/or influence the prosecution witness;
- iv) Anticipatory Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)

Digitally
signed by
Sachidanand
Kuttan Nair
Date:
2018.10.11
10:34:35
+0530