

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2487 OF 2018

Kalpesh Shanivar Patil

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Namrata S. Bobade, for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent/State.

Mr. Sachin shinde, PSI, Kongaon Police Station, present.

CORAM: PRAKASH D. NAIK, J

DATED: 5th December, 2018

PC:-

1. This is an application for anticipatory bail in CR No. I-228 of 2018 registered with Kongaon Police Station, Bhiwandi, for the offences punishable under Sections 376(2)(n), 354-C and 506 of Indian Penal Code.
2. The case of the complainant is that she was residing at Bhivandi in the room/premises owned by one Gurunath Patil. Three years ago, when her husband had gone to his native place, the applicant entered into the room and caught her from behind. On the next day, when she was taking bath, the applicant had recorded video on his mobile/cell phone. She questioned him about the same. Accused was demanding sexual favours and threatened her that in case she do not satisfy his demand he would circulate the video recorded by him. At about 2.00 am. in the night the accused knocked the door, which was opened by the complainant and he tried to force himself upon her. The complainant refused to compromise and hence he left the premises. After 2 – 3 days, the accused again threatened her.

When his mother was not around in the house and had sexual intercourse with the complainant and under the threat of circulation of video recorded in his mobile phone, he had physical relationship with the complainant for a period of two years. He also demanded that the victim should have physical relations with his brothers, which was refused by her and FIR was lodged on 23rd October, 2018.

3. The applicant had preferred an application for anticipatory bail before the Sessions Court. During the pendency of the application, interim protection was granted to the applicant. However, by order dated 26th November, 2018 the said application was rejected.

4. The learned Counsel for the applicant submitted that the complaint is false and it is lodged belatedly after a period of three years. The Sarpanch of the village had forwarded the report of the behaviour of the complainant.

5. The learned APP submitted that the statement of the complainant is further corroborated by her statement recorded under Section 164 of Criminal Procedure Code. The husband of the complainant had also supported her case. The mobile phone of the applicant is to be recovered for the purpose of investigation and to forward it to the expert for opinion with regard to the video shooting conducted by him.

6. On perusal of FIR, it is apparent that the incident was committed three years ago and allegedly there was physical relationship between the complainant and the applicant for a period of two years. It is further alleged that she was induced to do so under the threat of circulation of video recorded by the applicant – accused when the complainant was taking bath. The recording was allegedly conducted three years ago. Apparently,

according to the complainant there was physical relationship between the accused and the complainant on several occasions.

7. Taking into consideration the above circumstances, custodial interrogation of the applicant – accused is not warranted. The applicant can be directed to co-operate with the investigation. The applicant is willing to hand over his mobile phone to the Investigating Officer for the purpose of investigation.

8. Hence the following order:

: O r d e r :

- (i) Anticipatory Bail Application No.2487 of 2018 is allowed.
- (ii) In the event of arrest of the applicant, in CR No. I-228 of 2018 registered with Kongaon Police Station, Bhiwandi, for the offences punishable under Sections 376(2)(n), 354-C and 506 of Indian Penal Code, be released on bail on furnishing Personal Bond of Rs.25,000/- with one or more sureties in the like amount.
- (iii) Applicant shall report the Investigating Officer on 10th, 11th and 12th December, 2018 between 11.00 am. to 1.00 pm. and thereafter as and when called for till filing of charge-sheet.
- (iv) Applicant shall not tamper with the prosecution witnesses/evidence.

9. Application stands disposed of.

[PRAKASH D. NAIK, J.]

Order is corrected pursuant to speaking to the minutes order dated 14/12/2018.