

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [ABA] No.207 of 2018

Prakash Rudraswami Reddy

vs.

State of Maharashtra, through P.S.O. Khadan, Akola

 Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.S. Manohar, Advocate for the Applicant.

Shri H.D. Dubey, A.P.P. for the Non-Applicant/State.

CORAM : S.B. SHUKRE, J.
DATE : 5th APRIL, 2018.

Heard.

Perused the F.I.R. dated 23/02/2018 registered for the Crime No.94/2018 and reply of the prosecution. The anticipatory bail has been sought in the F.I.R. bearing Crime No.94/2018. The offences registered against this applicant in this F.I.R. are punishable under Sections 452, 376, 323 and 506 of the Indian Penal Code.

The learned Counsel for the applicant submits that the prosecutrix is in the habit of filing false complaints against various persons with a view to obtaining some advantage, either of pecuniary nature or otherwise from them. He further submits that as per her own admissions given by the prosecutrix in one complaint lodged by her for an offence punishable under Section 376 against one Nitin Tidke on

04/03/2008, the prosecutrix gave an affidavit on 12th August 2009 at the time when the discharge application was filed by Nitin Tidke that she filed that complaint only with a view to force Nitin Tidke to get married with her. He, however, submits that the prosecution had also filed one F.I.R. on 24/10/2017 against this applicant, which is registered as Crime No.291/2017, in which this prosecutrix made an allegation against the applicant that he outraged her modesty. He submits that for the present crime, in which relief of anticipatory bail has been sought, it has been alleged by the prosecutrix that this applicant committed rape upon her in November, 2016, but this fact is not mentioned in any manner in the F.I.R. dated 24/10/2017 vide Crime No.291/2017 filed by the prosecutrix against the applicant. In support of his contention, he has invited my attention to the previous F.I.Rs. and the affidavit of the prosecutrix.

The learned A.P.P. for the State submits that those were the previous incidents, and have nothing to do with the present crime.

On perusal of the previous F.I.R. and the affidavit of the prosecutrix, I find that there is a great substance in the argument of the learned Counsel for the applicant and no merit in the submission of the learned A.P.P. for the State.

Although, there was one crime registered against Nitin Tidke, which was an independent crime, the other crime which is Crime No.291/2017 registered on the basis of F.I.R. dated 24/10/2017 cannot be said to be not having any bearing upon the allegations made against this applicant in the present crime. The F.I.R. dated 24/10/2017 makes an allegation of outraging the modesty of the prosecutrix by the applicant. At that time, no allegation of commission of rape in the month of November, 2016 by this applicant upon the prosecutrix was made. Suddenly, in the present crime, the prosecutrix has come out with a story that even in November, 2016, this applicant had committed rape upon her. One does not understand as to why this relevant fact was not mentioned in the F.I.R. lodged by her on 24/10/2017.

The crime registered against Nitin Tidke in a way would also be relevant. The relevancy would be for the purpose of *prima facie* examining the tendency of the prosecutrix. In that crime, which was registered as Crime No.30/2008, the offences punishable under Sections 376, 420 and 468 read with Section 34 were registered against Nitin Tidke and his parents. Later on, the prosecutrix filed an affidavit dated 12/08/2009 in the Sessions Trial, which was initiated on the basis of the said F.I.R. (Sessions Trial

No.15/2008). In this affidavit, the prosecutrix admitted that during pendency of that trial, she got married with one Shrikrishna Haribhau Waghmare. She then admitted that she had live in relationship with Nitin Tidke, which relationship was in the nature of husband and wife. She also stated that no formal ceremony of marriage was performed. Then she admitted that the F.I.R. was filed by her against Nitin Tidke as she was desirous of getting married with him. Then, she gave her no objection that Nitin Tidke and his parents be discharged from the case.

These previous incidents would sufficiently reveal the tendency of the prosecutrix and same would make me find in *prima facie* manner at this stage that the possibility of exaggerations made against this applicant is not ruled out.

In the result, I am of the view that this application deserves to be allowed and it is allowed accordingly.

The interim bail granted to the applicant on 27/03/2018 is hereby confirmed on the same conditions.

JUDGE

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