

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

ANTICIPATORY BAIL APPLICATION NO.1587 OF 2019

Rutuja Pravin Patil @
Rutuja Kushabrao Shinde

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Niranjan Bhavake, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent.
- PI Kondre, Sangola Police Station, Solapur, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th JULY, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.486/19 registered with Sangola Police Station, Solapur, under sections 354 (D), 354(A)(1)(4), 354(D), 354(D) (1)(1)(2), 500 of the Indian Penal Code and under section 66(D), 67(A) of Information Technology Act.

2. The FIR is lodged by the first informant on 04/06/2019. She has stated in her FIR that her younger sister

Bhagyashree was married to the main accused Bapu. However, Bapu had extramarital affairs and there was marital discord between Bhagyashree and Bapu. Since past many months sister Bhagyashree of the first informant was residing at her parental house. The first informant herself was married. Her husband is working in the Indian Army. After 11/02/2019 many of the informant's relatives received a message casting aspersions on the first informant's character. There was reference to an audio clip which was circulated on social media. The first informant's husband made a detailed complaint to the Superintendent of Police, Solapur Rural. On that enquiry it was noticed that those messages were sent using services for sending bulk messages by the name HP-MORWAD and those messages were linked to a particular phone number. The enquiry revealed that the phone number was registered in the name of the present Applicant. The present Applicant, incidentally, is maternal cousin of the first informant. Bhagyashree had told the first informant that the Applicant was having illicit relationship with the main accused Bapu Mane. The FIR further mentioned that when the

Bhagyashree and Bapu were residing together, Bhagyashree wanted to visit her parental house for Raksha Bandhan. Bapu had not allowed her to go. At that time, the first informant had insisted that Bhagyashree should come to the parental house. From that day onwards, Bapu was holding grudge against the first informant. Bapu had told Bhagyashree that he would take revenge against the first informant. Thus, the first informant was convinced that Bapu himself, by using telephone number of the present Applicant, had sent those bulk messages. The FIR is thus lodged against Bapu. The present Applicant is apprehending her arrest because her telephone number was used for committing this offence.

3. Heard learned Counsel Mr.Niranjan Bhavake for the Applicant and learned APP Ms.A.A. Takalkar for the State.
4. Mr.Bhavake submitted that though the Applicant's number is used in committing the offence, the entire allegations are directed against the main accused Bapu Mane. Even there are allegations in the FIR that the Applicant and Bapu were

having love relationship and therefore it was not difficult for Bapu to have used her telephone to commit this offence.

5. Ms.Takalkar, the learned APP submitted that even after arrest of Bapu Mane the messages were still circulated. To this, learned Counsel for the Applicant pointed out that there is procedure in the system that the SMSs can be sent after a certain date. Therefore only on those allegations it cannot be concluded that the present Applicant was circulating those messages.

6. The submissions of Mr.Bhavake does have some force. The FIR itself mentions all the allegations against Bapu Mane. He was the one who was aggrieved because his wife was residing at her parental house. Bapu Mane and the present Applicant were in a relationship and therefore her phone was easily accessible to Bapu. Therefore at this stage, custodial interrogation of the Applicant may not be necessary, though she will have to cooperate fully in the investigation. Hence, the following order :

ORDER

- (i) In the event of her arrest in connection with C.R.No.486/19 registered with Sangola Police Station, Solapur, the Applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station from 29/07/2019 to 02/08/2019 between 03.00 to 05.00 p.m. She shall be interrogated only in the presence of a lady police officer.
- (iii) The Applicant shall surrender the SIM card as well as the handset for the purpose of investigation.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)