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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1787 OF 2018

Avinash Shripati Kamble	..Applicant.
V/s.	
The State of Maharashtra & Anr.	..Respondents.

ANTICIPATORY BAIL APPLICATION NO.1802 OF 2018

Yogesh Vishnu Gaikwad	..Applicant.
V/s.	
The State of Maharashtra	..Respondent.

ANTICIPATORY BAIL APPLICATION NO.1125 OF 2018

Amit Baban Kate	..Applicant.
V/s.	
The State of Maharashtra	..Respondent.

Mr.Ghanshyam S.Jadhav for the applicant In ABA/1787/2018.

Mr.Niranjanjan Mundargi I/b. Vaibhav V.Ugle for the applicant In ABA/1125/2018.

Mr.Sachin S.Punde for the applicant In ABA/1802/2018.

Mr.S.H.Yadhav, APP for the respondent-State.

Smt. Rujtuja Ambekar APP for the respondent-State.

Mr.Sanjiv P.Kadam with Ms.Vilasini Balasubramanian i/b. Bhalchandra Shinde for intervenor in ABA/1787/2018.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 29, 2019

P.C.:-

Heard learned counsel for the applicants, learned counsel for the intervenor and learned APP for the State.

2. In these applications, the applicants are seeking pre-arrest bail in crime No.261/2018 (FIR No.264/2018) for offence punishable under sections 376, 406, 420, 504 and 506 read with 34 of the Indian Penal Code registered with Wakad police station, Pune.

3. The prosecution story against the applicants is, applicant Amit was married to the sister of complainant, namely Rajashri on February 14, 2005.

4. The complainant Nikita is the younger sister of Rajashri, who is married to one Prashant on December 17, 2013 and were separated in November, 2014.

5. Taking undue advantage of social status of Nikita, it is claimed that applicant under false promise of marriage and providing financial support for further education, established physical relations with her. The allegation is also that applicant

Amit has received an amount of Rs.40 lakhs from father of complainant with an promise to pay it to her being her share in ancestral property.

6. So far as other two applicants, namely Avinash and Yogesh are concerned, the allegations against them are restricted only to the extent of threatening the complainant Nikita, and to act in aid of the main accused Amit.

7. In the aforesaid backdrop, learned counsel Mr. Mundargi would urge that plain reading of the contents of the F.I.R. would reflect that the applicant is falsely implicated in the crime in question, much less when the complainant Nikita is major by age and is alleged to have continued in physical relations with the applicant for more than three years. According to him, the said conduct of the complainant is sufficient to infer that though the applicant is married, she continued her relationship with the applicant for quite long time. Mr.Mundargi would then urge that the allegation of receipt of Rs.40 lakhs are not supported by any documentary evidence. He would then urge that the applicant is very much available for investigation and as such, custodial interrogation is not warranted.

8. So far as the other applicants, namely Yogesh Vishnu Gaikwad in Anticipatory Bail Application No.1802 of 2018 and Avinash Shripati Kamble in Anticipatory Bail Application No.1787 of 2018 are concerned, according to them, the only allegations are of abetment.

9. Learned APP has invited my attention to the investigation carried out till date and would submit that the conduct of the applicants as is narrated in the F.I.R., which can be inferred from the evidence collected during the course of investigation, speaks of very character of the applicants. It is further pointed out that father-in-law of applicant Amit has sold the ancestral property and handed him part of the consideration to be paid to complainant which claim to have been misappropriated by the applicant Amit. Same needs to be recovered from the applicant Amit. As such, it is claimed that custodial interrogation of all the three applicants is warranted and pray for rejection of their applications.

10. Having considered the submissions, what is noticed is, so far as applicants Yogesh Vishnu Gaikwad and Avinash Shripati Kamble are concerned, there are no justifiable reasons on record,

much less in the investigation papers, which warrant their custodial interrogation particularly in absence of involvement in commission of offence punishable under section 376 of the Indian Penal Code. In view thereof, the applications of these applicants, namely Anticipatory Bail Application No.1802 of 2018 and Anticipatory Bail Application No.1787 of 2018 stand allowed on the following conditions :-

- i) In the event of arrest in Crime No.261/2018 (FIR No.264/2018) for offence punishable under sections 376, 406, 420, 504 and 506 read with 34 of the Indian Penal Code registered with Wakad police station, Pune, the applicants Yogesh Vishnu Gaikwad in Anticipatory Bail Application No.1802 of 2018 and Avinash Shripati Kamble in Anticipatory Bail Application No.1787 of 2018, be released on bail on their executing P.R. bonds of Rs.25,000/- each with one or two sureties each in the like amount;
- ii) The applicants shall attend the Investigating officer as and when directed;
- iii) The applicants shall not influence the prosecution witnesses or tamper with the evidence;

iv) The applicants shall co-operate with the investigating agency;

11. In so far as applicant Amit Baban Kale in Anticipatory Bail Application No.1125 of 2018 is concerned, the case diary and the investigation papers reflect sufficient material to infer his *prima facie* involvement in the crime in question.

12. The oral statement of the wife of the applicant and the statement of father-in-law and that of complainant in voluminous terms justify the claim put forth by the complainant Nikita. That being so, in my opinion, no case for grant of pre-arrest bail is made out. The Anticipatory Bail Application No.1125 of 2018 of the applicant Amit Baban Kale is rejected.

13. Mr.Mundargi, at this stage submits that this Court had granted ad-interim protection to the applicant on June 20, 2018 which is operating till date. According to him, the same be continued for a period of four weeks from today.

14. This request is objected to by the learned APP and learned counsel for the complainant. In the facts and circumstances of the case, the protection is extended for a period

of two weeks from today.

15. All the applications are disposed of in above terms.

(NITIN W. SAMBRE, J.)