

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.970 OF 2020

Sambhaji s/o Ramdas Girhe,
Age : 30 years, Occu: Agri.,
R/o : Ambe Gavhan, Rohokadi
Pune, Junnar – 412 409.

... Applicant

VERSUS

The State of Maharashtra,
through Police Inspector,
Police Station Ghargaon,
District Ahmednagar.

... Respondent

...

Advocate for Applicant : Mr. V.D. Salunke i/b. Mr. M.V. Salunke
APP for Respondent/State: Mr. M.V. Kagne

...

CORAM : MANGESH S. PATIL, J.

DATE : 06.11.2020

PER COURT :

The applicant is seeking bail in the event of his arrest in connection with Crime No.180/2020 registered with Ghargaon Police Station, Tq. Sangamner, District Ahmednagar.

2. In substance, the allegations are to the effect that the prosecutrix is the second wife of her husband. Both these wives having quarreled with the husband went to the place of the brother of the other wife. With the intention to go back the prosecutrix made a phone call to the applicant who arrived on a motorcycle. She then asked him to give her lift

up to Pimpri Pendhar, where upon he took her to Bota on his motorcycle. He then suggested to go to Pimpri Pendhar via Ambi. However, on the way he demanded sexual favour and thereafter committed rape. She then alleges that she disclosed this incident to her husband on 05.07.2020 and the FIR was lodged on 06.07.2020. Whereas the Crime was registered on 11.07.2020 for the offence punishable under Section 376 of the Indian Penal Code.

3. The learned advocate Mr. V.D. Salunke submits that the applicant is now being falsely implicated just to extort money. In fact, the applicant and the prosecutrix have been in consensual relationship for more than three years. Even from the statement in the FIR it is apparent that it was the prosecutrix who had made a phone call to him and had requested to drop her. The learned advocate further points out that there are photographs showing intimacy between the two. The husband of the prosecutrix is now insisting for payment of some money. There is enormous delay in lodging the FIR. Considering the nature of the allegations coupled with all the aforementioned facts and circumstances, custodial interrogation of the applicant is not necessary. Nothing is to be recovered from and discovered by him. Following the principles in the case of **Siddharam Satlingappa Mehetre Vs. State of Maharashtra and Ors; (2011) 1 Supreme Court 694, Gurbaksh Singh Sibbia and Ors. Vs. State of Punjab, 1 (1980) 2 SCC 565** and in the catena of other judgments of the Supreme Court, the applicant deserves to be granted anticipatory bail.

4. The learned APP opposes the application. He submits that though there is delay, it is not enormous. The incident has taken place on 03.07.2020 and has been reported on 06.07.2020. It is only that the offence was subsequently registered with the jurisdictional Police Station on 11.07.2020. The learned APP further points out that the statement of the prosecutrix has also been recorded under Section 164 of the Code of Criminal Procedure and she has corroborated her allegations in the FIR. There are the statements of the husband and the other wife of the husband which corroborate the version of the prosecutrix. The matter is serious and is under investigation. The application may be rejected.

5. It does appear that the prosecutrix was acquainted with the applicant in as much as she herself had made a phone call and had asked for a favour of giving lift. But then, except the photographs which are in fact selfies showing that the prosecutrix and the applicant are sitting side by side there is no other material to infer that there has been long standing consensual relation between the two.

6. Though there is some delay in lodging the FIR in as much as the incident is stated to have taken place on 03.07.2020 but the FIR has been lodged on 06.07.2020, no inference can be drawn at this juncture about any concoction. The offence indeed is serious and the Investigating Officer deserves to be extended sufficient opportunity to complete the investigation. Releasing the applicant on bail is certain to cause prejudice to the Investigating Officer.

7. Considering all these facts and circumstances, in my view this is not a fit case to grant the discretionary relief of anticipatory bail. The Application is rejected.

(MANGESH S. PATIL, J.)

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