

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

ANTICIPATORY BAIL APPLICATION NO.1016 OF 2020

Shaikh Allaiddin Shakur,
Age : 35 years, Occu: Labour/Mechanic,
R/o. Sathe Nagar,
Georai, Taluka – Georai,
District – Beed.

... Applicant
(Orig. Accused)

VERSUS

The State of Maharashtra,
through Georai Police Station,
Georai, Taluka – Georai,
District – Beed.

... Respondent

...

Advocate for Applicant : Mr. Girish S. Rane
APP for Respondent/State: Mr. P.G. Borade

...

CORAM : MANGESH S. PATIL, J.

DATE : 24.11.2020

PER COURT :

Apprehending his arrest in connection with Crime No.30/2020 registered with Georai Police Station for the offence punishable under Sections 376, 363, 346, 343 and 506 of the Indian Penal Code, the applicant is seeking bail under Section 438 of the Code of Criminal Procedure.

2. The FIR has been lodged by a married lady aged 22 years having two year old child on 21.01.2020 alleging that a quarrel took place between her and her husband on 26.11.2019 and she left her matrimonial home along with the two year old child. The applicant being acquainted to

her, under the pretext of taking her to Nashik to a place of relative till the dispute is resolved, he took her in a car to a place at Nashik from there he took her in a bus to some unknown place and thereafter in a railway to a place which she later on came to know to be a place called Chintal from Telangana State. She alleges that by putting her under threat he sexually exploited her for couple of months. He did not allow her to make phone calls or speak to neighbours. Somehow she could contact her brother on phone which the applicant had forgotten to takeaway. Her brother then went to Chintal, brought her back to Shahagad and then the FIR was lodged.

3. The learned advocate for the applicant submits that *ex-facie* the allegations in the FIR clearly show that those are afterthought. There is no explanation as to why and how in spite of having sufficient opportunity to escape and to raise alarm the applicant could establish sexual relation with her and continued doing so for a period of more than 2 months. Her version that she was taken to Chintal firstly in car and thereafter by a public transport and she was oblivious of all these movements is not believable. The applicant has produced photographs 'Exhibit – C' showing that the prosecutrix is joyfully enjoying company of the applicant. They can be seen in embracing each other. It was apparently a consensual relation. The applicant is ready to co-operate the Investigating Officer. His custodial interrogation is not necessary and he may be granted bail subject to usual conditions.

4. The learned APP opposes the application. He submits that the

offence is serious. A married women have been sexually exploited. There is nothing to disbelieve her version about the applicant having taken her to different places and established sexual relation by putting her under fear of death. Custodial interrogation of the applicant is necessary and the application be rejected.

5. I have carefully gone through the papers of investigation as well as the photographs produced by the applicant. It is apparent that the FIR is conspicuously silent as to why and how the prosecutrix could not raise alarm at the first opportunity or several subsequent opportunities. Even the version in the FIR that she was oblivious of the movements from Shahagad to Chintal in Telangana State is *ex-facie* unbelievable.

6. She alleges that she was initially taken to Nashik in a car from there she was taken to a place in a bus and thereafter to Chintal in a train, as if she was constantly under some delirium.

7. The police papers reveal that the Investigating Officer has already submitted a charge sheet by resorting to Section 299 of the Code of Criminal Procedure. However, the list of witnesses does not show that he has taken pains to visit the place in Chintal from Telangana State where the applicant allegedly stayed with the prosecutrix for couple of months.

8. The photographs produced on the record by the applicant clearly show that he has embarrassed her while taking the photographs. If she is already married, such photographs would *prima facie* indicate that she was having some consensual relation with the applicant.

9. Considering the quality of allegations and the nature of the investigation carried out by the Investigating Officer, the applicant deserves to be granted anticipatory bail subject to usual terms and conditions.

10. Leave is granted to correct the prayer clause.

11. The application is allowed. In the event of arrest of the applicant in connection with Crime No.30/2020 registered with Geori Police Station for the offence punishable under Sections 376, 363, 346, 343 and 506 of the Indian Penal Code, he be released on bail on his executing personal recognizance for an amount of Rs.25,000/- and furnishing a solvent surety in the like amount subject to following conditions:

- a) He shall attend the concerned police station on three consecutive Saturdays starting from 28.11.2020 between 12.00 noon and 2.00 pm and shall co-operate the Investigating Officer.
- b) He shall not tamper the evidence or influence the witnesses.
- c) He shall not make any attempt to communicate with the Prosecutrix or her relations.

(MANGESH S. PATIL, J.)