

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

ANTICIPATORY BAIL APPLICATION NO.1085 OF 2020

Vikas s/o. Daulatrao Wagh,
Age : 52 years, Occ. Service,
r/o. Manik Chowk,
Ahmednagar

..Applicant

Vs.

The State of Maharashtra

..Respondent

Mr.N.S.Ghanekar, Advocate for applicant
Mr.D.R.Kale, Public Prosecutor for respondent

**CORAM : R.G. AVACHAT, J.
RESERVED ON : NOVEMBER 13, 2020
PRONOUNCED ON : NOVEMBER 27, 2020**

ORDER :-

Apprehending arrest in connection with Crime No.6007 of 2020 registered on 29.09.2020 with Kotwali Police Station, Ahmednagar, for the offences punishable under Sections 376(2)(a), 313, 323, 504 and 506 of the Indian Penal Code, the applicant has filed this application under Section 438 of the Code of Criminal Procedure.

2. Heard. Perused the First Information Report (FIR) and the papers of investigation so far made.

3. The FIR has been lodged on 29.09.2020 by a 26 years old woman. It is averred in the FIR that in March, 2019, the informant had been to Kotwali Police Station, Ahmednagar, to lodge a report against a person harassing her. The applicant was then a Police Inspector serving with Kotwali Police Station. The informant got acquainted with the applicant. The applicant obtained cell number of the informant and started contacting her. The difference of age between the two is of little over 26 years. The applicant was like father to the informant. He, thereafter, started visiting her residence under one or the other pretext. Considering the applicant's age and his position, the informant welcomed the applicant. The applicant, however, started making sexual advances. The informant resisted. The applicant gave threats to her life and had sexual intercourse against the informant's wish and consent. The informant had, initially, resisted the sexual advances. The applicant, therefore, beat her up with a belt. Taking

advantage of his position, he put the informant under fear and sexually exploited her many a times. The informant conceived. The applicant forcibly administered abortion pills to the informant. In lieu of consuming abortion pills by the informant, the applicant even promised to marry her.

4. When it became unbearable for the informant, she approached the Superintendent of Police, Ahmednagar, in April, 2020. The applicant having realised the same, took the informant to a deserted place towards M.I.D.C. and gave threats to her life. It is further alleged that the applicant forcibly obtained informant's signatures on some blank papers. He got executed some documents from a Notary and deposited some amount in her account. The applicant made the informant's life miserable. The applicant implicated the informant in 2-3 crimes. The applicant took custody of cell phone of the informant and deleted most of the matters that was against him. The applicant even emotionally blackmailed the informant

under the threat of committing suicide.

5. Mr.Ghanekar, learned counsel for the applicant, would submit that it was a consensual relationship. The informant blackmailed the applicant and even extorted some amount from him. The informant had lodged more than two similar complaints against the applicant and immediately reneged therefrom. It is the informant, who started making phone calls to the applicant and brought him under dragnet. Learned counsel took me through the extracts of text messages between the two. According to him, the applicant has surrendered his official revolver. He is ready to co-operate with the investigation and abide by any of the conditions.

6. Learned Public Prosecutor would, on the other hand, submit that the applicant is a Police Officer. He abused his official position and sexually exploited a woman of the age of his daughter. The applicant has such type of relationships with other

women as well. For investigation of the crime, custodial interrogation of the applicant is required. He, therefore, urged for rejection of the application.

7. The applicant is of 52 years of age. The informant is major. She was married. As her matrimonial life was not happy, she separated from her husband. She has a nine years old son. The informant claims to be a side-actress and played roles in many a films. Admittedly, there was acquaintance between the informant and the applicant in March, 2019. The informant is on social media. She has a Facebook account. On her Facebook account, she uploaded her photographs in the company of the applicant. I have carefully perused all the material relied upon by either side and *prima facie*, came to a conclusion that it is a consensual relationship.

8. True, the applicant appears to have misused his official position. He appears to have no good

moral character. One may say him to be a blot on the department he is serving with. Both the applicant and the informant had been in relationship for little over one year. It appears from the text messages that the informant was emotionally involved with the applicant. She knew the applicant to have been a married person. She, however, wanted him to be with her all the while.

9. This being an application for grant of anticipatory bail, I restrain myself from making very many observations. Few facts, however, need to be referred to.

10. It appears that when it was not well between the two, the informant posted some matter on her Facebook account, alleging therein the applicant to have had sexually abused her many a times. Within hours of making said post viral, she deleted the same. It appears that taking cognizance of the Facebook post, a lady A.P.I. attached to the Control

Room of the office of Superintendent of Police, Ahmednagar, recorded the informant's statement on 05.05.2020. In the last paragraph of the statement, the informant stated to have been under tremendous mental stress for some days. The informant went on to state to have no grievance against the applicant. Again on 12.05.2020, the informant gave her statement to the same lady Police Officer, stating therein that the matter on the Facebook post was not true. The informant reiterated the same in her statement dated 17.05.2020. Then, she executed an affidavit before a Notary Public. The record indicates the applicant to have paid her Rs.Eight Lakhs by cheque in consideration whereof, she had agreed not to make any complaint against the applicant.

11. The informant lodged a police report on 11.09.2020. Most of the allegations therein have been reiterated in the FIR dated 29.09.2020, which is under consideration in this application. In the FIR dated 11.09.2020, the informant alleged to have been

sexually exploited by the applicant and two Police Constables namely, Pramod Lahare and Tanveer Shaikh. Within three days of lodging of the said FIR, the informant gave a statement on 14.09.2020, stating therein to have worked out truce/compromise with the applicant. She claimed to have had no grievance against him. Again after some days, the informant lodged the FIR.

12. At the cost of repetition, it needs to be observed that the applicant and the informant had friendly relationship. Their friendship developed into emotional relationship. The informant appears to have had become pregnant. She underwent abortion. When the relationship was on the rocks, both of them started harassing each other. It appears that the applicant also abused his position and tried to implicate the informant in criminal activities. The informant did not lag behind. She too went on lodging complaints, alleging the applicant to have had sexually exploited her. The exchange of text messages

between the two indicate that at a point of time, the informant stooped to very low. She used very filthy language against the applicant. It also appears that someone was guiding her.

13. Learned counsel for the applicant has every to reason to contend that the allegations in the FIR have been made on the advice of someone else. It is not that both the applicant and the informant had not been in relationship of any kind. It is only after falling out of love, both of them started making allegations against each other.

14. The FIR has been lodged little over one month after alleged sexual encounters. It is reiterated that the applicant is not innocent. He appears to have abused his position. His conduct is of unbecoming of a Police Officer. The fact, however, *prima facie*, is that it is a consensual relationship.

15. After having considered the matter in all its perspectives and drawing a balance sheet of the

facts, pro and against the applicant, I find it to be a case to grant the applicant anticipatory bail.

16. In view of the above, the application is allowed in terms of the following order:-

(i) In the event of arrest of the applicant in connection with Crime No.6007 of 2020 registered on 29.09.2020 with Kotwali Police Station, Ahmednagar, for the offences punishable under Sections 376(2)(a), 313, 323, 504 and 506 of the Indian Penal Code, the applicant be released on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

(ii) The applicant shall appear before the Investigating Officer as and when required for the purpose of investigation.

(iii) The applicant shall not tamper with the prosecution evidence in any manner.

[R.G. AVACHAT, J.]

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