

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 516 OF 2020**

Zahid Akbar Ali Khan .. Applicant
Vs.
The State of Maharashtra
(Through Shantinagar Police Station,
Bhiwandi, Dist. Thane) .. Respondent

Mr.Vinod Sangamlal Gupta for applicant.

Mr.S.R. Shinde, APP for State.

Mr.Homaji Sanganji Chirmade, Netra Shantinagar Police Station,
Bhiwandi.

CORAM : N.J. JAMADAR, J.

DATE : 17TH MARCH 2020

P.C.

1. This is an application for pre-arrest bail.
2. The applicant apprehends arrest in C.R.No. 57 of 2020 registered with Shantinagar Police Station for the offences punishable under sections 354, 354-D, 500 and 506 of Indian Penal Code, 1860 ('Penal Code') for having outraged the modesty of the first informant and for criminal intimidation.
3. The indictment against the applicant runs as under :-

(a) The first informant had known the applicant. The

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friendship developed between the applicant and the first informant. A number of photos were snapped. In the month of September 2018, while the applicant and the first informant were travelling in a car, the applicant attempted to disrobe the first informant and touched her inappropriately. On the resistance of the first informant, the applicant threatened her to have physical relations with him lest he would share the incriminating material which he had, on social media, and would ensure that nobody marries her. The first informant further alleges that the applicant did implement the threat and ensured that the marriage proposals did not materialize by informing the prospective grooms about the relations he had with the first informant.

4. The applicant had preferred an application for pre-arrest bail before the learned Sessions Judge. The said application being application No. 464 of 2020 came to be rejected by order dated 24th February 2020. Hence, this application.

5. In the application, the applicant asserts that the applicant and the first informant were in a relationship. The first informant has falsely roped in the applicant after more than 1½ years of the alleged

incident. No specific role is attributed to the applicant. Hence, the applicant be directed to be enlarged on bail, in the event of arrest.

6. Heard the learned counsel for the applicant and the learned APP for the State.

7. Inviting the attention of the Court to the allegations in the first information report, the learned counsel for the applicant urged that there is an inordinate and unexplained delay in lodging the report as the gravamen of indictment is of outraging the modesty in the month of September 2018. This factor coupled with the absence of any other incriminating material, warrants that the applicant be enlarged on bail, in the event of arrest, urged the learned counsel for the applicant.

8. In opposition to this, the learned APP pointed out that the statement of the first informant under section 164 of the Code of Criminal Procedure, 1973 ('The Code') is recorded. The first informant has reiterated the allegations against the applicant. The incriminating material is yet to be recovered from the applicant. The investigation is underway. The custodial interrogation of the applicant is thus warranted.

9. It is true that there is an element of delay in lodging the FIR. The crucial factor which furnishes the reason for lodging the FIR at a later point of time also constitutes the justifiable explanation, if the conduct attributed to the applicant post the incident which occurred in September 2018 is considered. The first informant has asserted while lodging the FIR as well as in her statement recorded under section 164 of the Code that the applicant had contacted the prospective grooms and saw to it that the engagements were called off. A specific instance of the engagement with a boy, named Sohail, is deposed to by the first informant in her statement under section 164 of the Code.

10. In the aforesaid backdrop, the apprehension on the part of the investigating agency cannot be said to be unfounded. It is a case, where the applicant allegedly carried out the threat to defame and malign the first informant and jeopardized her marriage prospects.

11. In this view of the matter, the Court is not persuaded to exercise the discretionary jurisdiction in favour of the applicant.

12. Hence, the application stands rejected.

[N.J. JAMADAR, J.]