

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.658 OF 2020

Wasim Syed	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Chandan R. Yadav for applicant.
Mr.S.R.Agarkar, APP, for State.
Mr.Anand Pawar, API & IO, D.N.Nagar Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 17th March 2020

PC :

1. This is an application for anticipatory bail in CR No.41 of 2020 registered with D.N.Nagar Police Station, Mumbai for offences under Sections 376 and 452 of Indian Penal Code.

2. The FIR was lodged on 20th January 2020. The applicant and the complainant were acquainted with each other since 2017. They had physical relationship. The husband of the complainant then learnt about illicit relationship between applicant and complainant. The complainant was divorced. Thereafter she had stayed with the applicant. Subsequently husband of the complainant performed re-marriage with the complainant and then started residing together. It is alleged that on 20th January 2020 the applicant had forcibly entered into the residence of complainant and had physical relationship with her.

3. The applicant had preferred application for anticipatory bail before Sessions Court which has been rejected. The contention of

the applicant is that the FIR is false. The complainant and applicant were in relationship since long time. The relationship was consensual. The version of complainant that applicant had forcefully entered into house and had physical relationship with her is concocted.

4. Learned APP submitted that supplementary statement of the complainant was recorded on 1st February 2020. In the said statement she has alleged that the applicant had taken her to hotel and both of them had stayed together for five days at Jogeshwari. When they had visited hotel at Khar the applicant had video-recorded their relationship and she was being threatened from time to time and was subjected to physical relationship. It is further submitted that the statement of one of the witnesses was recorded to whom the victim had disclosed that the applicant had entered house and made physical relationship with her.

5. From the tenor of FIR and the supplementary statement it is apparent that the applicant and the complainant were in relationship for long time. There was physical relationship between them. The supplementary statement makes additional allegations which were not part of FIR. There was no reference to video recording. FIR has been lodged pursuant to the alleged incident dated 20th January 2020. The alleged incident had occurred during day. It is alleged that the applicant had entered into house and subjected her to physical relationship. Taking into consideration the fact that they were into relationship in the past and the tenor of allegations reflected in the FIR as well as supplementary statement, the version of complainant appears to be doubtful. The applicant need not be

subjected to custodial interrogation and on certain stringent conditions bail can be granted to the applicant.

6. Hence, I pass following order :

ORDER

- (i) In the event of arrest of applicant in connection with CR No.41 of 2020 registered with D.N.Nagar Police Station, Mumbai, the applicant be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (ii) The applicant shall stay out of jurisdiction of D.N.Nagar Police Station, Mumbai till further orders;
- (iii) The applicant shall enter jurisdiction of D.N.Nagar Police Station, Mumbai only to attend the Investigating Officer on 23rd, 24th and 26th March 2020 between 11 am and 1 pm;
- (iv) The applicant shall not approach the complainant in any manner and shall not tamper with evidence;
- (v) The applicant shall not enter vicinity of the place of residence of complainant and shall not harass the complainant;
- (vi) In the event of breach of this order, the complainant and prosecution will be at liberty to prefer application seeking cancellation of anticipatory bail;
- (vii) Criminal Anticipatory Bail Application No.658 of 2020 is disposed of.

(PRAKASH D. NAIK, J.)

MST