

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

927 ANTICIPATORY BAIL APPLICATION NO.128 OF 2021

Vishal s/o Chandrabhan Chittewar,
Age 36 years, Occ. Doctor,
R/o. Laxminiwas Janardhan Nagar,
Near Hanumangad, Nanded
Tq. & Dist. Nanded.

....Applicant

Versus

The State of Maharashtra,
Through City Police Station,
Parali-Vaijinath Tq. Parali-Vaijinath

...Respondent

...
Advocate for Applicant : Mr. Narsing B. Jadhav
APP for Respondent-State : Mr. S.W. Mundhe

...
CORAM : MANGESH S. PATIL, J.

DATE : 23 FEBRUARY 2021

PER COURT :

The applicant is the brother-in-law of the informant, seeking bail in the event of his arrest in connection with Crime No.0001/2021, registered with Parali Vaijinath Police Station, Dist.Beed for the offences punishable under Section 376(2) (f), 498A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, on a FIR lodged by her on 01.01.2021.

2. Before proceeding further, it would be appropriate to mention that along with applicant, husband and other relations of the husband are being implicated for the aforementioned offences. The learned Sessions Judge has granted anticipatory

bail to all of them, except the present applicant.

3. The allegations against the applicant are to the effect that on some day in the month of June or July 2020, when her mother-in-law asked the informant to fetch blouse pieces from the upper floor of the house, the applicant was already present inside the room. He bolted the door and committed rape on her. She states that to avoid social stigmatization, no grievance was made promptly in respect of that incident. Allegations against the rest of the accused persons regarding demand for money and ill-treatment on that count. The allegations against the applicant are in respect of the incident of rape.

4. The learned Advocate for the applicant submits that the conduct of the informant is clearly indicative of the fact that her version regarding rape is a figment of imagination. No proper and sufficient explanation is coming-forth in the FIR as to why the incident was not disclosed promptly by her to her near and dear ones. When the other accused have been granted anticipatory bail, even the applicant deserves to be granted bail, when the facts and circumstances clearly indicate that there is a concoction.

5. The learned APP opposes the application. He submits

that the offence is serious. No inference can be drawn at this juncture merely on the basis of the delay in lodging the FIR containing the allegations regarding rape. There are statements of her parents to whom she had disclosed the incident and they have come out with the plausible explanation that they were avoiding stigmatization and were reluctant to disclose the incident. Considering the serious nature of the crime, custodial interrogation of the applicant is necessary. The application be rejected.

6. I have carefully gone through the papers. Indeed, in the normal course, the allegations of rape are serious and need to be looked upon equally seriously. However, the facts and circumstances of the present matter, clearly indicate that there is a room to doubt veracity of the informant as far as the allegations against the applicant are concerned.

7. Accepting her version in the FIR, she is unable precisely to state as to when the incident had taken place. She says that it could be in June 2020 or July 2020.

8. Besides, she states that her mother-in-law was also present in the house and had asked her to fetch blouse pieces from the upper floor. She alleges that the applicant was already present in the upper floor room and committed rape on

her.

9. Further, though she states that she had informed her parents about the incident, their statements recorded under Section 161 of Code of Criminal Procedure mentions that on 27.08.2020, when the informant had come to their place that she had disclosed them about this incident of rape. It is, therefore, not clear as to why the informant had also not disclosed the incident to her parents at some earlier point of time.

10. Coupled with the aforesaid state of affairs, there is one more circumstance that needs to be borne in mind. The husband of the informant seems to have made an attempt to commit suicide in the month of August 2020 and was admitted in Apollo Hospital, Hyderabad.

11. Considering the chain of events and the quality of the allegations discussed herein above, in my considered view, the applicant deserves to be released on bail subject to usual conditions.

12. The Application is allowed.

13. In the event of his arrest in connection with Crime No.0001/2021, registered with Parali-Vaijinath Police Station,

Dist.Beed for the offences punishable under Section 376(2) (f), 498A, 323, 504 and 506 read with Section 34 of the Indian Penal Code. the applicant shall be released on his executing personal recognizance for an amount of Rs.20,000/- (Rupees twenty thousand) and furnishing a solvent surety in the like amount, subject to following conditions :

- a) The applicant shall attend concerned Police Station on three consecutive Saturdays, starting from 01.03.2021 between 11.00 a.m. and 01.00 p.m. and shall co-operate the Investigating Officer.
- b) He shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

sarowar