

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

ANTICIPATORY BAIL APPLICATION NO.317 OF 2021

RITESH PUNAMCHAND SALVE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Tapse Ashok R.
APP for Respondent/State: Mr. S.W. Mundhe
...

CORAM : MANGESH S. PATIL, J.

DATE : 08.04.2021

PER COURT :

This is the Application under Section 438 of the Code of Criminal Procedure as the applicant is apprehending his arrest in Crime No.6/2021 registered with Newasa Police Station, Dist. Ahmednagar for the offence punishable under Sections 363, 365, 376, 354, 354-A, 354-B and 506 of the Indian Penal Code.

2. Heard the learned advocate for the applicant. The FIR has been lodged by a woman aged 21 years alleging that on 03.01.2021 at about 8:30 p.m. when she had gone out side the house for urination, couple of persons gagged her mouth and made her to sit on a motorcycle. She was threatened and was taken to a deserted place. She could notice that one of them was applicant whom she was knowing. When she opposed his overt act, he made her to lay down and took her objectionable photographs. She then ran away from the spot to nearby field of one Devdan Salve who informed

her parents and her husband about the incident. The FIR was lodged and the offence was registered under Section 363, 354, 354-A, 354-B and 506 of the Indian Penal Code. He was arrested and later on released on bail.

3. It appears that in her supplementary statement she further disclosed that subsequently by threatening her of circulating the photographs and defaming her, the applicant made her to establish sexual relations and thereby committed rape. Therefore Sections 365 and 376 of the Indian Penal Code were added.

4. The bail granted to the applicant before this serious charges were invoked was cancelled and now he is apprehending his arrest.

5. The learned advocate for the applicant would submit that the informant is a married woman. The allegations regarding rape were not immediately made. It is by way of an afterthought and with an ulterior motive the allegations regarding rape have been levelled. The applicant is ready to cooperate the Investigating Officer. He was already in the police custody for three days. It is thereafter that he was granted bail. Since the allegations regarding rape are being levelled belatedly, his liberty may not be curtailed.

6. True it is that the allegations regarding rape have come subsequently. At this juncture there is no material to explain the delay in levelling those allegations.

7. But the fact remains that in her statement recorded by Magistrate under Section 164 of the Code of Criminal Procedure, the

prosecutrix has specifically alleged about the applicant having made her to establish sexual relation by threatening her of circulating her photographs. At this juncture, this much of material is sufficient to conclude that *prima facie* the applicant is involved in the serious crime of rape and the matter needs to be investigated threadbare, may be by resorting to his custodial interrogation.

8. On my query the learned advocate for the applicant also fairly conceded that the mobile phone of the applicant has not been seized. Going by the allegations in the FIR, it was expected of the Investigating Officer to have made an attempt to recover the mobile in which according to the prosecutrix the photographs were taken.

9. Whatever may be the case, the offence is serious and no discretion can be exercised in favour of the applicant.

10. The Application is rejected.

(MANGESH S. PATIL, J.)