

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

917 ANTICIPATORY BAIL APPLICATION NO.333 OF 2021

Shaikh Ashfaq S/o. Shaikh Daood,
Age: 50 years, Occ: Service,
R/o: Gulshan Baaag, Super Market Road,
Parbhani, Tq. & Dist: Parbhani.

...Applicant

VERSUS

The State of Maharashtra,
Through Nanalpeth Police Station,
Parbhani, Tq. & Dist: Parbhani.

...Respondent

...
Advocate for Applicant : Mr. Syed G. R.
APP for Respondent-State : Mrs. G.L. Deshpande
...

CORAM : SHRIKANT D.KULKARNI, J.

Date :- 11th May, 2021.

P. C. :

1. This application for anticipatory bail is moved by the applicant by taking aid of Section 438 of the Code of Criminal Procedure.
2. Heard Mr. G.R. Syed, learned Advocate for the applicant and Mrs. G.L. Deshpande, learned APP for the respondent-State.
3. Perused the copy of the FIR, as well as set of police papers submitted by the learned A.P.P.

4. Mr. Syed, the learned Advocate for the applicant submitted that the alleged incident had taken place on 17th February, 2021 at 5.00 p.m. in Government Dispensary at Parbhani. The first informant has put the law in motion by filing FIR by causing delay of five days. On 22nd February, 2021 the first informant rushed to the police station, Nanalpeth, Parbhani and narrated about the incident which happened with her on 17th February, 2021. According to the allegations made in the FIR, the applicant alleged to have followed the first informant and after stopping her, the applicant alleged to have outraged her modesty. The first informant rescued herself from the hands of the applicant. The applicant alleged to have threatened her with dire consequences. The first informant disclosed the incident to sister of the hospital, Smt. Rathod.

5. On the basis of FIR lodged by the first informant Anita d/o Vasantrao Sudke, Crime No. 87 of 2021, came to be registered at Nanalpeth police station against the applicant, for the offences punishable under Sections 354, 354-D and 506 of Indian Penal Code.

6. On going through the police papers, it is noticed that the lady doctor Neha Nagargoje and Sister Mrs. Rathod have supported the version stated by the first informant before the police. Both of them have stated that it is not the first incident with the first informant and in the past also, the applicant did the same acts.

7. The investigation is in progress. The core question before me is about need of custodial interrogation. It is an admitted position that the applicant and the victim are working at same place. The first informant apprehending of repetition of such incident and she scares about the applicant. Prima-facie, it is the case of sexual harassment at work place but the provisions of 'The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013', seem to have not been invoked by the first informant as well as police. The investigating officer needs to consider the provisions of the aforesaid Act.

9. As pointed out earlier, nothing is to be recovered from the custody of the applicant. There is absolutely no need of custodial interrogation, nor to connect the applicant with the alleged crime. The investigating officer had already recorded statements of important witnesses to whom the first informant has disclosed the incident immediately. The apprehension of the first informant can be taken care by asking the applicant to stay away from the work place of first informant, till completion of investigation smoothly and it is better that the applicant should get his transfer to another place in the interest of both sides.

10. Having regard to above reasons and discussion, I am convinced to grant anticipatory bail to the applicant, on certain conditions, which will take care of remaining part of the investigation.

Hence I proceed to pass the following order :

ORDER

A. Application for anticipatory bail moved by the applicant Shaikh Ashfaq S/o. Shaikh Daood under Section 438 of Code of Criminal Procedure is allowed.

B. In the event of arrest in connection with crime No. 87 of 2021, registered with Nanalpeth Police Station , District Parbhani, for the offences punishable under Sections 354, 354-D and 506 of I.P.C. the applicant shall be released on furnishing PR of Rs. 15,000/-, with one or two solvent sureties, in the like amount on the following conditions :

- a. The applicant shall report attendance once in a week i.e. every Monday between 10.00 a.m. and 11.a.m., at Nanalpeth Police Station, District Parbhani, till completion of investigation.
- b. The applicant shall remain present before the Investigating Officer as and when called for the investigation and co-operate to the investigating agency.
- c. The applicant shall stay away from the work place, till completion of investigation smoothly and try to get his transfer at some other place.
- d. In case of breach of any of the conditions imposed by this Court, anticipatory bail granted to the applicant shall stand cancelled.

C. Inform to police station concerned, accordingly.

(SHRIKANT D. KULKARNI)
JUDGE

mahajansb/