

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

**32 ANTICIPATORY BAIL APPLICATION NO.561 OF 2021
WITH
APPLN/1394/2021
IN A
BA/561/2021**

**SHAMSUNDAR S/O HARIBHAU WAGH
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Nilesh S. Ghanekar
APP for Respondent-State : Mrs. V.S. Chaudhari
...

CORAM : SANDEEP K. SHINDE , J.

Date :- 12th July, 2021.

P. C. :

1. Heard learned counsel for the applicant and learned APP for the State.
2. Applicant is a practicing Advocate. He was representing complainant in many cases as her lawyer. In 2019, complainant lodged a FIR (Crime No. 299/2019) against applicant under Section 376 (2) (n) of the Indian Penal Code ('IPC' for short). Applicant was granted pre arrest bail. Pending crime No. 299 of 2019, on 28th February, 2021 crime No. 78 of 2021 was registered with Cantonment Police Station, District Aurangabad, at the instance of complainant, under Section 327, 507, 504 and 506 read with Section 34 of the IPC.
3. Complainant would allege that on 27th February, 2021 she

met applicant, whereafter, he snatched her mobile and refused to return it. Therefore, she followed him. When she reached the applicant's house she was asked to sign some papers, to which she declined. Whereafter, applicant assaulted her with Iron rod and his wife assisted him. As consequence, she went to the hospital. She was examined by the Medical Officer and on next day she reported the incident to police, whereupon the subject crime came to be registered.

4. Apprehending the arrest, applicant and his wife sought pre-arrest bail. Learned Sessions Court granted pre-arrest protection to applicant's wife and declined the protection to applicant.

5. It may be stated pending application, the learned Sessions Judge had granted pre-arrest protection to applicant and he joined the investigation as and when required by the Investigating Officer. This statement is not disputed by the prosecution. It is submitted by the learned counsel for the applicant that complainant was dead-set on to force entry in applicant's house to live with the applicant, over on which, applicant's wife had spat with complainant. It had happened on 27th February, 2021. Whereafter, applicant's wife reported this incident to police on same day, at 9.00 p.m., which was recorded as NCR No. 239 of 2021.

The contention is that after lodging NCR, complainant reported the incident of alleged assault on next day. It is therefore submitted that the case sought to be made out against applicant was on

reconsideration and thus suspicious. Further it is argued that allegations in the FIR do not make out offence punishable under Section 327 of IPC.

6. Be that as it may, the allegations do not prima-facie establish the commission of offence punishable under Section 327 of the IPC. Insofar as, injuries sustained by the applicant is concerned, it may be stated that, all were of simple in nature and possibly caused in the quarrel ensued, when complainant was dead-set to stay with applicant in his house. Therefore, it may be a case under Section 323 of IPC. Even otherwise, applicant is an Advocate by profession, having firm roots in the society and would be available for interrogation. In the circumstances, an application is allowed.

7-(i) In the event of arrest of applicant in connection with crime No. 78 of 2021, registered with Cantonment (Chhawani) Police Station, Aurangabad, for the offences punishable under Sections 327, 507, 504, 506 read with Section 34 of Indian Penal Code ('IPC' for short), he shall be released on bail on executing P.R. bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

(ii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case and shall not tried to establish relations with complainant by any means or mode.

(iii). The applicant shall join investigation when called by the Investigating Officer.

8. Bail application No. 561 of 2021 is allowed and disposed of.

9. In view of this application No. 1394 of 2021 in Bail Application No. 561 of 2021, for assist to learned APP is also disposed of.

(SANDEEP K. SHINDE)
JUDGE

mahajansb/