

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

ANTICIPATORY BAIL APPLICATION NO. 920 OF 2021

Tanaji s/o Digambar Chavan,
Age : 35 years, Occu. Service,
R/o. Pande Galli, Naigaon,
Taluka Naigaon, Dist. Nanded.

...Applicant

Versus

The State of Maharashtra

...Respondent

.....
Mrs. Varsha S. Ghanekar, Advocate for the applicant
Mrs. Vaishali S. Choudhari, APP for respondent / State
.....

CORAM : V. G. BISHT, J.
DATED : 15th September, 2021

PER COURT : -

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 0177 of 2021, registered with Vimantal Police Station, District Nanded, for the offences punishable under Sections 376(1), 294, 504, 506 r/w 34 of the Indian Penal Code.

2. Informant and applicant are neighbours. They were friends and later on started loving each other. The prosecution alleges that one day the applicant asked the informant for sexual

favour but she denied and also narrated the incident to applicant's wife. The prosecution alleges that on 05.06.2021, applicant entered into her house, bolted the door from inside and pressed her mouth. It is further alleged that he then inserted his finger in her vagina and also inserted penis in her ear and further tried to thrust penis in her mouth. It is further alleged that the applicant then picked up a knife from kitchen and threatened her with death if the incident was disclosed to anybody. Informant accordingly lodged the report.

3. Mrs. Varsha S. Ghanekar, learned Counsel for the applicant, submits that there is a delay of nine days in filing the FIR without any explanation. According to learned Counsel, the informant was well aware that the applicant was a married person having children and despite that she maintained physical relations for about six months. It is only when the applicant stopped talking with the informant, she started nurturing grudge against him and thus falsely implicated in the offence in question. The learned Counsel then lastly submitted that the nature of allegations does not warrant custodial interrogation as nothing is to be seized from the applicant. Applicant is ready to abide by all conditions, which may be imposed by this Court.

4. Mrs. Vaishali S. Choudhari, learned APP, on the other hand, opposed the submissions by contending that having regard to the allegations and the fact that the investigation is in progress, the application deserves to be rejected.

5. A plain reading of FIR would give a semblance that the informant was well aware of the marital status of the applicant and despite that, she fell in love with applicant and then their relations started. If the submission of learned Counsel for applicant is to be believed, it will be seen that there were consensual sexual relations between the informant and the applicant. Be that as it may, there are specific allegations against the applicant. Having regard to the allegations and over all facts and circumstances of the case, in my considered opinion, there is no requirement of custodial interrogation of the applicant as nothing is to be seized, recovered or discovered at the instance of the applicant.

6. As far as the delay in lodging FIR is concerned, I am not with learned Counsel for the applicant inasmuch as the informant has given explanation in her FIR as to why there was delay in lodging the FIR. This aspect at this stage shall not detain me.

7. As already noted, the custodial interrogation of the applicant is not imperative in the present matter, I am inclined to allow the application. Hence, I pass the following order.

ORDER

- i. The application is allowed.
- ii. In the event of arrest of the applicant, namely, Tanaji Digambar Chavan in connection with Crime No. 0177 of 2021, registered with Vimantal Police Station, District Nanded, for the offences punishable under Sections 376(1), 294, 504, 506 r/w 34 of the Indian Penal Code, the applicant is directed to be enlarged on bail on his furnishing P.R. Bond of Rs.20,000/- [Rs. Twenty thousand], with one or two solvent sureties in the like amount.
- iii. The applicant shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.
- iv. The applicant shall not tamper with the prosecution evidence in any manner.

[V. G. BISHT]
JUDGE