

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

31 ANTICIPATORY BAIL APPLICATION NO.1066 OF 2021

Sahebrao Balaji Mitkar ... Applicant.

Versus

The State of Maharashtra ... Respondent

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Advocate for the Applicant : Mr. M. M. Parghane
APP for the Respondent – State : Mr. V. S. Badakh

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CORAM : PRAKASH D. NAIK, J.

DATE : 04th OCTOBER, 2021

PER COURT :-

1. The applicant is apprehending arrest in C.R. No. 187 of 2021 registered with Hadgaon Police Station, District Nanded for offences punishable under Section 376(2)(n), 365, 506 read with 34 of the Indian Penal Code. The First Information Report was registered on 24th July, 2021.

2. The complainant is aged about 36 years. Her relations with her husband's family were not cordial. She was residing at her parental home. She got acquainted with the applicant. Her husband had obtained loan of Rs. 25,000/- from the applicant. Thereafter, the accused had demanded the amount from complainant. On 25th April, 2021 she was subjected to physical relationship under coercion. Thereafter on several

occasions she was subjected to physical relationship. On 16th July, 2021 she was taken to Shirdi and subjected to physical relationship. The co-accused was driver of the vehicle.

3. Learned counsel for the applicant submits that the applicant had been falsely implicated in this case. The amount of Rs. 25,000/- as alleged was obtained as loan by the husband of the complainant. The first incident of physical relationship had occurred on 25th April, 2021. The F.I.R. has been registered on 24th July, 2021. The complainant has alleged that she was subjected physical relationship on several occasions and thereafter she was taken to Shirdi. The allegations are concocted.

4. Learned APP submits that the victim was subjected to sexual assault under coercion. The F.I.R. has been registered immediately after 10 days from the last incident. In the past case is registered against applicant with the same police station under Section 326 of the Indian Penal Code.

5. From the tenor of F.I.R. it is apparent that the first incident had occurred on 25th April 2021. The F.I.R. was registered in July 2021. The victim is aged about 36 years. After the first incident on several occasions there was physical relationship. Thereafter in July 2021, she was taken to Shirdi

and again subjected to sexual assault. Even assuming allegations to be true, it can be seen that there was physical relationship on several occasions. The relationship appears to be consensual. Considering the nature of allegations and the fact that there was substantial delay in lodging the F.I.R. the applicant need not be subjected to custodial interrogation.

ORDER

- (i) Anticipatory Bail Application No.1066 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in C.R. No.187 of 2021 registered with Hadgaon Police Station, District Nanded the applicant be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall appear before the Investigating Officer on 12th, 13th and 14th October, 2021 between 11.00 a.m. to 01.00 p.m. and thereafter as and when called for till filing of the charge-sheet.
- (iv) The applicant shall co-operate with the investigation.
- (v) The applicant shall not approach the complainant/victim and shall not tamper with the evidence in any manner.
- (vi) Application stands disposed of.

(PRAKASH D. NAIK)
JUDGE