

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1099 OF 2021

Rushikesh Bhagchand Mogal
Age : 22 years, occ : agri.,
R/o Wadgavhan, Bidkin,
Taluka Paithan, Dist.Aurangabad.

Applicant

Versus

1. The State of Maharashtra.
2. X Y Z
Age : 17 years, occ : education
R/o Wadgavhan, Bidkin,
Taluka Paithan, Dist.Aurangabad

Respondents

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Mr. A.N. Raut, Advocate for the applicant.
Mr. N.T. Bhagat, A.P.P. for respondent – State.
Mr. N.R. Thorat, Advocate for respondent No. 2.

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CORAM : **PRAKASH D. NAIK, J.**

DATE : 27-10-2021.

ORDER :

1. This is an application for anticipatory bail in Crime No. 290/2021 registered with Bidkin Police Station, District Aurangabad for the offences punishable under Sections 354, 354-A, 354-D, 506 of the Indian Penal Code (for short, "I.P.C.").

2. The First Information Report (for short, "F.I.R.") was lodged on 12.08.2021 by the victim, aged about 17 years. It is alleged that the victim was attending coaching classes at Bidkin before one year and she used to travel by bus. Prior to about 1 ½

years while she was returning home after attending the classes, the applicant approached her on motorcycle and expressed his love for her and also told her to reciprocate it. The victim told him not to chase her and talk to her. She needs to complete her study. In the event he disturbs her, she would inform about it to her parents. Thereafter the applicant was continuously visiting Bidkin to see her while going to and returning from class. He used to make gestures and also used to indicate that she should accompany him on his motorcycle. While she was at home, he used to come near her house and look at her. He used to follow her. The victim neglected and tried to ignore him. However, the applicant continued to stalk her and also make gestures. On three occasions he told the victim that he likes her and he is in love with her. If she do not reciprocate, he would defame her. Thereafter the applicant used to hand over cell phone to the children from the village and sent them to the victim to enable her to talk to him. The victim refused to talk to him. The parents of the victim had approached the parents of the applicant and complained about the conduct of applicant to them. The parents of the applicant had apologized for the act of the applicant. After few days the applicant gave her call on the cell phone of her father and told him that he is in love with her and he would kidnap her. He also threatened to kill him, if he intervenes in the matter. The behaviour of the applicant did not improve. About 10 to 12 years days prior to the registration of F.I.R., the victim was out of the house and that time the applicant had followed her. He approached the victim and

pulled her by hand. He told her to sit on his motorcycle and that he is going to kidnap her. The victim shouted. The applicant fled from the place of the incident. F.I.R. was lodged on 12.08.2021.

3. Learned Advocate for the applicant submitted that the applicant has been falsely implicated in this case. F.I.R. has been lodged belatedly. The alleged first incident had occurred 1 ½ years ago. The complainant has stated that that she was attending coaching classes which is apparently false. During the said period the Lock-down was in force and all the shops, classes, schools, etc. were closed. He relied on the notification in this regard which is annexed to this application. Even at the time of occurrence of the last incident as alleged by the complainant / victim, the complaint has been registered after a period of 10 to 12 days from the incident. Custodial interrogation of the applicant is not necessary. The applicant is willing to stay out of his native village Paithan as well as entire Aurangabad District. The applicant has filed affidavit before this Court dated 26.10.2021 stating that he would not reside in his village Paithan as well as in Aurangabad till filing of the charge-sheet or till the period as the Court orders and that he will not tamper the prosecution witnesses in any manner. He has also undertaken that the applicant will abide by the conditions imposed by this Court. The affidavit is taken on record.

4. Learned A.P.P. submitted that the applicant has been continuously stalking and harassing the victim. Although the victim had refused to accede to the proposals of the applicant, he continued to harass her. The offence is of serious nature. The victim is minor. The applicant is also involved in threatening the victim as well as her father. There is evidence to show the complicity of the applicant in the crime. There are statements of witnesses which corroborate the version of the victim / complainant. She was subjected to harassment continuously for a period of about 1 ½ year. Although the applicant has filed affidavit as stated above, he has not indicated as to where he would stay in the event this application is allowed.

5. Learned Counsel for the complainant supported the submissions of the learned A.P.P. It is submitted that there is apprehension that the applicant would continue to harass the victim. The harassment continued for a long period of time. The last incident depicts the conduct of the applicant. The application be rejected.

6. The victim is aged about 17 years. The applicant is aged about 22 years. There are no criminal antecedents against the applicant. The grievance of the victim is that the applicant had been chasing her and repeatedly informing her that he is in love with her. The harassment has continued for a period of 1 ½ year. The last

incident had allegedly occurred prior to 10 to 12 days of lodging of F.I.R. Per contra, the contention of the applicant is that, although the alleged stalking and harassment continued for 1 ½ years, there was no prior complaint. The allegation that the victim was attending the classes is difficult to accept since according to the applicant, on account of Lock-down the classes were closed. The applicant would furnish the details of place of his residence within one week to the Investigating Officer, since he has to arrange for residence at difference place,

7. Considering the factual aspects as stated above and to protect apprehension as expressed by the victim / complainant, relief can be granted to the applicant on certain stringent conditions. Hence, the following order.

ORDER

- (i) ABA No. 1099 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in Crime No.290/2021 registered with Bidkin Police Station, District Aurangabad, the applicant be released on bail on executing P.R. Bond in the sum of Rs. 20,000/- (Rupees Twenty Thousand only) with one or more sureties in the like amount.
- (iii) The applicant shall abide by his affidavit / undertaking and shall stay out of Paithan Taluka and Aurangabad District, till further orders. The applicant is permitted to appear before the trial Court only for attending the Court proceedings, in the event the charge-sheet is filed.

- (iv) The applicant shall furnish details of the place of his residence to the Investigating Officer within one week from today.
- (v) In the event of breach of condition, the prosecution / complainant will be at liberty to prefer application for cancellation of anticipatory bail.
- (vi) Application stands disposed of.

(PRAKASH D. NAIK, J.)

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