

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 901 OF 2021

1. Prakash Jagannath Bagal
2. Suryakant Jagannath Bagal @ Kandesar Applicants

Versus

The State of Maharashtra Respondent

Mr. Umesh R. Mankapure for Applicants.
Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 30th MARCH, 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No. 127 of 2020 registered at Vita Police Station, Sangli, on 26/04/2020, under sections 324, 323, 504 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Umesh Mankapure, learned counsel for the applicants and Shri. Ajay Patil, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by the victim herself. She was a Police Patil of Bobadewadi village, Taluka Khanapur, Dist. Sangli. She has stated that, she was knowing the present applicant. On 26/04/2020, at about 9:00a.m. she received a phone call from the present applicant. He abused her. At about 9:15a.m. the informant and her son were going towards Lengre village from their Bobadewadi village. On the way, near Zilla Parishad school, informant saw the present applicant. She questioned him about abuses. The applicant allegedly picked up a stick which was lying there and started beating her. The informant's son tried to intervene. At that time, he was also beaten by the applicant. The Applicant No.1's brother (Applicant No.2) came there. He also assaulted the informant and her son. The villagers then separated the fight. The informant then went to the police station and lodged her F.I.R. Subsequently, the informant gave a supplementary statement in which she made allegations that, in the incident the applicant pulled her saree and pushed her on the ground. The applicant also touched her inappropriately. Therefore, section 354 of IPC was subsequently added.

4. Learned counsel for the applicant submitted that the applicant himself had lodged his own F.I.R. vide C.R.No.128 of 2020 at the same police station regarding the same incident. He was bitten by the informant and there was a medical certificate showing bite marks on his finger. He submitted that, admittedly, they were not on good terms and, therefore, this false F.I.R. is lodged against him. He submitted that, to give a serious colour to this incident, subsequently, allegations of outraging modesty by using criminal force were introduced. He further submitted that the offence is old and after about a year, custodial interrogation of the applicant is not necessary.

5. Learned APP produced investigation papers before me and opposed this application. He submitted that, informant's supplementary statement was recorded on the same day and there are eye witnesses including the informant's son who have supported her case. He further relied on medical certificates in respect of injuries suffered by the informant and her son.

6. I have considered these submissions. The injury certificates show that the informant had suffered multiple abrasions on her forearm and one abrasion on her abdomen. Both these injuries are described as simple injuries. Her son had suffered minor abrasion on the little finger. It is also described as simple injury. Thus, F.I.R. indicates that, in the incident neither of them had suffered any major injury. The main allegations in this case are about outraging modesty of the informant by using criminal force involving section 354 of IPC. In this connection, it is important to note that, in the F.I.R. there is no whisper of allegations regarding outraging modesty. The F.I.R. is restricted to the fight between both of them. The F.I.R. shows that the informant had approached the police station, then she was given a police yadi and she went to the hospital for treatment. Thereafter she came back and lodged her F.I.R. Therefore, there was sufficient time for the informant to gather her thoughts and put them before the police in her F.I.R. She herself was a Police Patil of the village, therefore, she was aware of importance of her F.I.R. In the F.I.R., there are no allegations concerning offence U/s.354 of IPC. In the

supplementary statement, those allegations are made. In her statement under section 164 of Cr.p.c. which is recorded in June, 2020, same allegations are recorded. But, at this stage, it appears that, those allegations were made as an afterthought to give a serious colour to this incident. Of course, this will have to be tested during trial. But for the consideration of anticipatory bail, at this stage, it does appear that these allegations were made subsequently to give a serious colour to this incident. The statements of eye witnesses are recorded on the next day, therefore, there is no immediate corroboration to her story, as far as, offence under section 354 of IPC is concerned. The incident is old. It had taken place in April 2020. Therefore, after about a year I do not see any propriety to allow the custodial interrogation of the applicants. Therefore, the applicants deserve protection of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No. 127 of 2020 registered at Vita Police

Station, Sangli, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.

- (ii) The Applicants shall attend the concerned Police Station, as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)