

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 948 OF 2020

1. Balaji @ Revannath Nanasaheb More
2. Anil Kalyan Kangude ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Manoj Mohite, Sr. Advocate i/b Mr. S. S. Jadhawar, Advocate for the Applicant.

Ms. M. R. Tidke, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 11th FEBRUARY, 2021

PER COURT:

1. This is an application for anticipatory bail in C.R. No. 105 of 2020 registered with Karmala Police Station, Dist. Solapur for the offences under Sections 376(D), 354, 324, 363, 504, 506, 143, 147 & 149 of Indian Penal Code. The FIR was lodged on 7th February, 2020.

2. The case of the complainant is that the applicants were harrasing her. on 29th January, 2019, the complainant/victim was sleeping along with her family members in front shed. At about 11.30 p.m., the applicants came there. They threatened her and by lifting her she was taken near hip of fodder in front of the house of

applicant No.1 and she was subjected to sexual intercourse under coercion by both of them. She was threatened that if she disclose the incident to anyone, her family members would be killed and her photographs would be viral. Hence, she did not disclose about it to any person. On 5th April, 2019 both the applicants had approached Karmala police for filing complaint against her. She visited Police Station and lodged N.C. complaints. N.C. complaints were registered against both sides. On 16th November, 2019 both the applicants intended to cause harassment to complainant. Her brother intervened. He was assaulted. She lodged FIR. On 7th January, 2020, while the complainant and others were sleeping in front shed, applicant No.1 and others came there and threatened her of dire consequences, if complaint of rape is lodged against them.

3. Learned advocate for the applicant submitted that the complaint is false. There is delay in lodging the complaint. The alleged incident had occurred on 29th January, 2019 whereas the FIR was lodged on 7th February, 2020. The wife of applicant No.1 had filed complaint against the victim and her family members vide C.R. No.617 of 2019 on 14th September, 2019 for offences under Sections 452, 324, 354-A, 354-B, 504, 506, 143, 147 & 149 of IPC. Several complaints were filed at the instance of complainant and her family prior to present FIR. However, there were no allegations in respect to

incident of rape.

4. Learned APP submitted that the complaint attributes role of sexual assault to the applicants. Statement of the victim was recorded under Section 164 of Cr.P.C. Offence under Section 376 is made out against applicants. Several complaints were lodged against applicants relating to assault and outraging modesty by complainants family. The applicants have threatened the complainant after registration of FIR. The applicants are likely to tamper with evidence in the event this application is allowed.

5. The alleged incident had occurred on 29th January, 2019. The complainant has alleged that she was sleeping with her family members in shed. She was lifted by accused in the night and they had committed forcible sexual intercourse. Apart from fact that the version speaks volumes of doubt, the FIR was lodged on 7th February, 2020. The complainant had opportunity to lodge complaint prior in point of time as she had lodged other complaints. C.R. No. 617 of 2019 was lodged by wife of applicant No.1 on 14th September, 2019 for offences under Sections 452, 324, 354-A, 354-B, 504, 506, 143, 147, 149 of Indian Penal Code. In this FIR it was alleged that on 14th September, 2019, the victim in the subject FIR and her family members abused wife of applicant No.1. They also threatened that

rape case would be registered against applicant No.1. She was assaulted and the accused therein committed act of outraging her modesty. In the present FIR, the victim/complainant has stated that she visited Police Station on 5th April, 2019 and 16th November, 2019. She did not lodge complaint about alleged incident dated 29th January, 2019. N.C. complaint was filed from applicants side against complainant/victim on 5th April, 2019. The victim lodged N.C. complaint against applicant No.1 alleging assault. No allegations regarding incident dated 29th January, 2019. N.C. was lodged against accused Nos. 1 2 & 4 on 5th August, 2019 alleging abuse and threat. Considering the aforesaid circumstances, custodial interrogations of applicant is not necessary. Prior to FIR several complaints were lodged by the victim which does not spell out the incident dated 29th January, 2019. It appears that both the sides are hostile against each other. Considering these circumstances, case for grant of anticipatory bail is made out. Hence, I pass the following order:

ORDER

- (i) Criminal Anticipatory Bail Application No.948 of 2020 is allowed;
- (ii) In the event of arrest of the applicants in connection with in C.R. No. 105 of 2020 registered with Karmala Police Station, Dist. Solapur, the applicants be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- each with one

or more sureties in the like amount;

(iii) The applicants shall attend the investigating officer on 17th, 18th & 22nd February, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for.

(iv) The applicants shall not tamper with the evidence or shall not approach the victim /complainant and shall not enter into the vicinity of residence of victim till conclusion of trial.

(v) Anticipatory Bail Application stands disposed of accordingly.

6. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)