

Ingale

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
ANTICIPATORY BAIL APPLICATION NO. 215 OF 2020**

ASHISH BALU KAMTHE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

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Ms.Swapna P. Kode, for Applicant.

Mrs. M.R. Tidke, APP for State.  
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**CORAM : M. S. KARNIK, J.**

**DATE : DECEMBER 10, 2021**

**P.C. :**

1. Heard learned Counsel for the applicant. This is an application for pre-arrest bail in respect of FIR dated 14/12/2019 registered vide C.R. No. 1052/2019 with the Lonikand Police Station, Pune for the offences punishable under sections 377, 363, 364, 387, 324, 504, 354(d) of the Indian Penal Code, 1860 (for short 'IPC'). It is the case of the complainant that she is the founder one foundation called 'Rajnandini Foundation' established in 2016. The complainant married one Siddharth Waghmare in the year 2009 and has one daughter from the said marriage. The applicant was engaged by her as a driver from 04/04/2017 on her vehicle. Prior to this FIR, there are two FIRs filed by

the complainant. On 06/01/2018, the complainant filed complaint being C.R. No. 23/2018 with the Hadapsar Police Station for the offence punishable under section 376 of IPC. The applicant was arrested and released on bail. Thereafter on 21/01/2018, the complainant filed FIR under sections 387, 504 of IPC against the mother and uncle of the applicant on the allegation that they were pressurizing her to withdraw the case filed against the applicant. The applicant's mother and uncle are granted anticipatory bail in the said FIR registered on 21/01/2018. In the instant FIR, it is alleged that the applicant on 26/11/2019 accosted the complainant when she was on her way back home and took away sum of Rs.25,000/- which was in her purse. The complainant further alleged that she was forced to withdraw sum of Rs. 10,000/- from ATM which was handed over to the applicant. It is further alleged that the applicant was abused her in filthy language. There are allegations that on 29/11/2019 sum of Rs.25,000/- was transferred by the complainant to the applicant's account. It is then alleged that on 01/12/2019 the applicant forcibly entered the

residence of the complainant and assaulted her. The complainant then stated that along with her son Aditya, the applicant took the complainant to Mahabaleshwar and had forcible physical relations with her. On the next date, the complainant came back home. It is further alleged that the entire expenses were borne by the complainant for the trip to Mahabaleshwar.

2. On record, from pages 47 to 60 are the copies of whats app chat between the applicant and the complainant. The whats app chat at page 60 reveals that in close proximity to filing of the instant FIR on 14/12/2019, the whats app chat reveals that despite filing of earlier FIR, the complainant wants the applicant to reside with her. The complainant appears to have an objection to the applicant keeping in contact with his mother. She gave him one last chance. Though it is alleged that the applicant assaulted the complainant, there is nothing on record to show the injury suffered by the complainant. That apart, if it is the allegation that the applicant forcibly took the complainant and her son to Mahabaleshwar on 01/12/2019, the FIR is

filed belatedly only on 14/12/2019. The complainant had earlier filed FIR on 06/01/2018 making similar allegations in respect of which the applicant has been released on bail. The complainant has also levelled allegations against the mother and uncle of the applicant. In my opinion, the applicant deserves grant of pre-arrest bail subject to certain terms and conditions. Furthermore, it is the case of the applicant that the complainant was married but the said fact was suppressed by the complainant. According to learned Counsel, she had also suppressed the factum of her four earlier marriages. Reliance is placed by learned Counsel for the applicant on photographs to show that marriage was performed between the applicant and complainant.

3. The complainant is a resident of Pune. Considering the fact situation of the present case, it is necessary that the applicant reside outside the area of Pune district. Hence, the following order.

**ORDER**

- i) The interim order passed by this Court on 27/01/2020 stands confirmed.

ii) In the event of arrest of the applicant in connection with C.R. No. 1052 of 2019 registered with Lonikand Police Station, Pune, the applicant be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

iii) The applicant to report to the Investigating Officer as and when called till the filing of the charge-sheet.

iv) The applicant to stay outside the jurisdiction of the Pune district subject to further orders that may be passed by the trial Court regarding his re-entry.

v) The applicant is permitted to enter Pune district only for the limited purpose of attending the I.O., the hearing of the pending criminal cases registered against him or on such occasions as the concerned trial Court may deem fit and proper.

4. Application is dispose of.

**(M. S. KARNIK, J.)**