

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

ANTICIPATORY BAIL APPLICATION NO. 850 OF 2021

Shrimant Haribhau Chavan Applicant

Versus

The State of Maharashtra Respondent

Mr. Aniket Nikam a/w Ashish Satpute i/b Vivek Arote for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd MARCH, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 12 of 2021 registered at Sindhudurganagari Police Station, Sindhudurg, on 22/02/2021 under sections 354, 354A(1) (i) and 506 of the Indian Penal Code.

2. Heard Mr. Aniket Nikam learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. This is a serious case where the accused is Civil Surgeon of District Sindhudurg. The FIR is lodged by the victim herself in respect of the harassment suffered by her at his hands. She has stated that she was employed with Home Guards. Thereafter, she was appointed as a Security Guard at District Civil Hospital at Sindhudurg. The applicant has a cabin in front of O.P.D. at Civil Hospital. Duties are assigned to lady security guards outside his cabin. On 11/12/2020, the applicant held the meeting of security guards. In that meeting he had told them that they had to act as per his instructions. If they did not follow his instructions, he would transfer them. The first informant has further stated in her FIR that after she was given duty outside his cabin, for some reason or the other, the applicant used to call her inside the cabin and used to hold her hands and try to seek her attention. There are allegations that while handing over articles and diaries, he used to deliberately touch her inappropriately. The FIR further mentions that he used to call her from his mobile number and used to ask her to meet him near ZP Office or at official quarters. The informant had told all these facts to the applicant's wife. She

had told the informant to wait till she came to Oros. However, she did not come. The FIR goes on to mention that on 15/2/2021, the applicant called her in the cabin at 4.00 p.m. At that time, he held her hand and told her that he liked her. He further told her that she should not tell about his behaviour to anyone else and if it was told to anyone, he would remove her from job. The informant got scared. She was scared even to attend her duties and after that she went to police station and lodged her FIR.

4. Learned Counsel for the applicant submitted that the applicant is involved in the offence because of political reasons. In the month of November 2020, he was suddenly transferred to Aurangabad. He had challenged this order in Maharashtra Administrative Tribunal and that transfer order was stayed by MAT, on 10/12/2020. He submitted that he is thus targeted politically. Shri Nikam further submitted that the alleged incident had taken place on 15/2/2021 and on that day the applicant was in Parbhani, attending some Court matter. Shri Nikam therefore submitted that allegations in the FIR are prima facie false. He

further submitted that in her supplementary statement the victim has improved her version after realising that the applicant was not in his office on that particular date. He submitted that this clearly shows that there was an attempt to implicate the applicant falsely. He submitted that except Section 354 of I.P.C., all other offences are bailable and Section 354 of I.P.C. is not made out in this case because there was no criminal force involved. He further submitted that even as per the allegations, the applicant had only taken informant's hand in his hand and that does not mean that her movement was stopped. According to learned Counsel, it would not amount to use of criminal force. Shri Nikam further submitted that based on these false allegations, if the applicant is arrested his future will be ruined. According to Shri Nikam there was no need of custodial interrogation of the applicant and he was willing to co-operate with the investigation.

5. Learned APP opposed this application. She submitted that during the investigation the informant had deposited her mobile phone hand set. From her hand set the recorded

conversation between the applicant and the informant was heard. In that conversation there is clear mention that the applicant was making advances towards the informant and in this background the incident in question had taken place. Therefore there is no question of false implication of the applicant. She further submitted that there are 10 other victims who have suffered at the hands of the applicant and they have made similar grievance against the applicant. She submitted that the date of the incident was clarified by the informant in her supplementary statement and it is understandable that as she was scared, she has made a mistake about date of incident. She further submitted that during pendency of the applicant's application before Sessions Court, he was protected by an interim order and he was directed to attend the concerned Police Station but he did not attend at the time as directed and he did not co-operate with the investigation.

6. I have considered these submissions. The offence undoubtedly is serious because the applicant was occupying a position where he could exert pressure on his employees. There

are allegations that since December 2020, he had made his intentions clear by holding a meeting of all the lady security guards.

7. Before the actual incident in February 2021, there was conversation between the applicant and the informant. The investigation papers contained such conversations dated 31/12/2020, 17/1/2021, 22/1/2021, 23/1/2021 and 06/2/2021. On 22/1/2021, he had made a phone call at 10.15 p.m. The applicant had no business to make phone calls after her duty hours. All these conversations do indicate that the applicant was trying to get over friendly with the informant and his advances were specifically discouraged by the informant. On 6/2/2021, the applicant had in fact called her to his quarters. This behaviour of the applicant is totally unacceptable. In this background, if the occurrence of the incident is considered then it can be seen that there are persistent attempts on the part of the applicant which had led to the incident which is subject matter of the FIR. I find no substance in the submissions of Shri Nikam that no criminal

force was used by the applicant. In the incident in his cabin, the informant's hand was taken in his hand. The informant's movement was restricted against her wish. This has to be seen in the background that the applicant had threatened the victim that he would remove her from job. These two aspects considered together makes out offence under Section 354 of I.P.C.

8. Broadly, while considering the application for anticipatory bail, some important aspects which need to be considered are; necessity of custodial interrogation, nature and gravity or seriousness of the accusation, possible harm to the reputation of the accused if arrested, material available against the accused etc.

9. In this matter, following are the circumstances which I am taking into consideration.

(i) The applicant holding the informant's hand in his cabin and threatening her.

(ii) Other objectionable aspect was the

applicant's telephonic conversations and the applicant calling the informant to his quarters.

(iii) The other employees having similar grievance against the applicant.

(iv) The applicant's non co-operation with the investigation.

Cumulative effect of these factors operates against the applicant at this stage for the prayer of anticipatory bail.

9. The applicant was occupying a position where he wanted his employees to accede to his unreasonable and illegal demands. This behaviour of the applicant cannot be ignored. Considering all these aspects protection of anticipatory bail order cannot be granted to him. Therefore I am not inclined to allow this application.

The application is rejected.

(SARANG V. KOTWAL, J.)