

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1009 OF 2021

Ashish Hasmukhlal Bhavsar ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. V. K. Dubey i/b. V. K. Dubey Associates, for the Applicant.

Mr. A. R. Kapadnis, APP for Respondent – State.

Mr. S. S. Aradhya, for Intervener.

Mr. Jaywant Pawar, P.I., Goregaon Police Station, Mumbai, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 09th APRIL, 2021

PC :

1. This is an application for anticipatory bail in C.R. No.122/2021 registered with Goregaon Police Station, Mumbai for the offence punishable under Sections 376 and 506(2) of Indian Penal Code (for short 'I.P.C.).

2. The First Information Report (for short 'F.I.R.') was lodged on 23rd March 2021. The complainant works as an artist. Friend of complainant had introduced her to the applicant on 6th March 2021. The applicant enquired with her whether she has acted as artist in the past. The complainant informed him that she has acted in two

web series and requested him to watch her role in said series. Applicant refused to do so. She was told to show acting skills, which she did. The applicant told complainant that he is producing web series “Bhabhi ka bhoot” and offered her role of Bhabhi. She refused the offer and told him that she is interested in Art film. Thereafter complainant told her that he is producing Art film “Children of death” and seven roles are to be performed by one person and offered her the role. The complainant accepted the role. She was told to give details of bank account, which was provided by her. She was told to visit office on 9th March 2021. Complainant visited applicant’s office on 9th March 2021. She was told to read script of Bar from Art film “Children of death.” She read the script. She was forced to sign consent letter. Around 8.00 p.m. the staff left the office. She was told to perform dance bar scene. During performance the applicant committed forceful sexual intercourse with her. She was threatened. Due to fear she did not disclose the incident to anyone. On 10th March 2021, complainant told applicant that she is not interested in performing in his Art film. She demanded consent documents. The applicant transferred Rs.1,40,000/- into her account. He touched her inappropriately. She slapped him. Due to fear she did not lodge complaint. However, on 13th March 2021, the applicant lodged F.I.R. against complainant and her friends.

3. Learned Counsel for the applicant submitted that the F.I.R. is false. He has been framed to extort money. The complainant and her associates has abducted applicant. Amount of Rs.1,60,000/- has been extorted from applicant. He lodged F.I.R. vide C.R.No.122/2021 on 13th March 2021 under Sections 365, 388, 323, 506(2), 504 and 34 of I.P.C. The complainant has executed consent letter dated 6th March 2021 stating that they had discussions about films. The show needs scene of sexual acts and she is willing to perform lead role. She gave consent for Workshops look test and acting. Workshops involve physical intimacy and she has no objection for the same. She also gave consent letter before having consensual physical relation with applicant. These documents are annexed to the application. The F.I.R. lodged by complainant is after thought. There is delay in lodging F.I.R. The alleged act was consensual. The F.I.R. is counterblast to F.I.R. lodged by applicant. Custodial interrogation is not necessary.

4. Learned APP and learned Counsel for the complainant submitted that specific allegations are made against the applicant. In the past C.R.No.16/2018 was registered against him by another victim for offence under Section 354 of I.P.C. The relationship was not consensual.

5. I have perused the F.I.R. The complainant has alleged that the applicant had committed forceful sexual intercourse with her. There is no reason to disbelieve the version of the complainant. The applicant has lodged F.I.R. on 13th March 2021. The contents of F.I.R. indicate that there was friendship between the applicant and victim and there was consensual physical relationship. There is admission of sexual intercourse. It is pertinent to note that both parties were unknown to each other. Applicant approached complainant for work on 6th March 2021. The next visit was on 9th March 2021 and on that day the alleged incident had occurred. It is difficult to accept that there was friendship between them and act was consensual. The documents of alleged consent for sexual relationship purportedly executed on 9th March 2021 which was the second visit of complainant to office of applicant shocks conscience. The alleged documents is in the nature of certificate "To whom so ever it may concern" stating that complainant is indulging in sexual relationship with applicant by free will and consent. The document contains other averments which the Court do not deem fit and proper to reproduce. It is shocking that there could be such consensual unlawful contract. The contention of applicant cannot be accepted. The offence is serious. The applicant is not entitled for relief under Section 438 of Cr.P.C.

6. Hence, I pass following order.

ORDER

Application is rejected.

(PRAKASH D. NAIK, J.)