

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

ANTICIPATORY BAIL APPLICATION NO.1436 OF 2021

Tushar Sanjay Rokade	 Applicant
Versus	
State of Maharashtra & Anr.	 Respondents

Mr. Aditya Raktade, Advocate for the Applicant.
Mr. Ajay Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st JUNE, 2021
[Through Video Conferencing]

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R.No.161/2021 dated 1.6.2021 registered at Shahuwadi Police Station, Kolhapur under section 354 of the Indian Penal Code.

2. The FIR is lodged by the victim herself. She has stated that she was residing in her house with her husband, mother-in-law, two daughters and a son. She was a volunteer in a Bachatgat. The applicant was studying with her in the past and, therefore, she was knowing him. She got married in the year 2011. After about ten years from that, the

applicant met her at Bambawade when she had gone there in connection with her work. That time, the victim had given her phone number to him. It is her case that the applicant used to call her frequently for no reason just to get friendly with her. The FIR mentions that on 11.5.2021 at about 10:30 p.m. she was washing utensils. At that time, the applicant came at the backside of her house. He called her outside the house. The informant refused. The applicant told her that he liked her and tried to pull her towards him. He touched her inappropriately. The informant shouted. At that time her mother-in-law and brother-in-law came out. The informant told them about this incident. Her brother-in-law tried to catch the applicant, but, he ran away. Initially the informant did not lodge her FIR but her husband told her that she should lodge her FIR and that he was supporting her. Because of his support, she lodged her FIR on 1.6.2021.

3. Heard Shri Aditya Raktade, learned counsel for the Applicant and Shri Ajay Patil, learned APP for the State.

4. Learned counsel for the applicant submitted that

the informant was a consenting party which is reflected from the WhatsApp messages sent by the informant herself. He relied on the particular messages dated 12.5.2021 between 6:19 p.m. to 10:17 p.m., wherein the informant herself had called the applicant for meeting her. She had repeatedly called him which shows that she was a willing party.

5. Learned counsel for the applicant also relied on the photographs annexed at Annexure-E to this application showing their more than friendly relations.

6. Learned A.P.P. submitted that the delay in lodging the FIR is explained by the informant and, therefore, that should not be a ground for granting him protection.

7. I have considered these submissions. From the WhatsApp messages and the photographs annexed to this application, it is more than clear that the applicant and the informant were having more than friendly relations. The WhatsApp messages show that the informant herself had called the applicant to meet her. There is a strong possibility that it is only after the family came to know about this, this

FIR is lodged.

8. The FIR is lodged after about 20 days from the alleged incident. In the context of the case, this also shows that the informant was possibly told by her family to lodge the FIR. Her messages and photographs suggest a different story.

9. At this stage, the applicant has sufficiently made out a case for protection of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.161/2021 dated 1.6.2021 registered with Shahuwadi Police Station, Kolhapur, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The applicant shall not try to contact any of the witnesses including the informant.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)