

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

ANTICIPATORY BAIL APPLICATION NO. 394 OF 2021

Sachin @ Tanaji Mahadeo Maykude Applicant

Versus

The State of Maharashtra Respondent

Mr. Vijendra Kumar Rai, for the applicant.
Smt. A.A. Takalkar, APP for the State/Respondent.
Mr. Mohammed Wasi Sayed for Respondent No. 2.

CORAM :SARANG V. KOTWAL, J.
DATE : 12th MARCH, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 159 of 20 registered at Dehu Road Police Station, on 13/3/2020, under sections 354-B, 376(2) (n), 504, 354-B of the Indian Penal Code.

2. Heard Mr. Vijendra Kumar Rai learned counsel for the applicant, Mr. Mohammed Wasi Sayed for Respondent No. 2 and Smt. A.A. Takalkar, learned APP for the State.

3. The FIR is lodged by the prosecutrix herself. She has stated that she was residing with her husband and two young children. The applicant was their neighbour. In the FIR, there are categorical allegation about the incident in January 2019. The applicant had committed forcible sexual intercourse amounting to rape without her consent. There are allegations that he had threatened the prosecutrix that he would harm her children and therefore she had succumbed to his force and threats. There are allegations that he had her photographs in his mobile phone. The informant has stated that her husband was bad tempered and, therefore, she did not tell these facts to anybody. On 07/03/2020, the applicant again committed rape forcibly. On this occasion, she informed about it to her husband and finally this FIR was lodged on 13/3/2020.

4. Learned Counsel for the applicant submitted that the applicant and the informant were in a relationship. It was a consensual relationship which can be seen from the photographs annexed to this application at Exhibit B. He submitted that they

were in relationship since past 10 years.

5. The first informant was added as a party and she is represented by an advocate. She has filed her affidavit. In her affidavit it is mentioned thus:-

“1. I had complaint against the present applicant for some neighbour/ personal disputes but Dehu Road Police Station, District Pimpri-Chinchwad have wrongly registered the FIR No. 159 of 2020 against present applicant for offence punishable under section 376(2)(n), 354(B) and 504 of I.P.C. and accordingly the present applicant is apprehending his arrest in aforesaid FIR, which has been registered against him wrongly.

2. I say that during my statement recording I had not alleged against present applicant for any offence as mentioned in FIR 159 of 2020. I had explained to investigating officer about quarrels incidences but investigating officer have added section which was not alleged by me against present applicant.

3. I say that neither I nor my intention was wrong to register a false complaint applicant, my only intention was to instruct the applicant through police. As applicant have never done any offence as alleged in FIR 159 of 2020 against me. I am 9th pass, hence I did not understand the

whole content and statement written in FIR, and I only signed on my statements, where I was asked to sign by Police Officer/ IO. Later when I came to know that applicant is apprehending his arrest then I myself approached to the applicant through known person and I shown my willingness for this affidavit and all co-operation.

4. I say that when came to know that the allegation made out by me and allegation written in FIR against applicant is not matching and not true, since then I am trying to bring out the fact. I say that applicant has never done anything as alleged in C.R. No. 159 of 2020 registered with Dehu Road Police Station, District Pimpri -Chinchwad, Maharashtra on 13th March 2020. I say that there has been some miscommunication between my statement and Dehu Road Police Station, District Pimpri-Chinchwad, Maharashtra, and no such incident has happened as written in C.R. No. 159 of 2020.”

6. She has finally stated that she does not have any complaint against the applicant. Learned Counsel for the first informant emphatically submitted that the informant has given this affidavit without there being any coercion.

7. The learned APP left the matter to the discretion of the

Court but she pointed out that the matter is serious and it should not be ignored.

8. I have considered these submissions. The photographs attached to this application, coupled with the affidavit of the informant shows that there possibly was consensual relationship. The informant in her affidavit has categorically stated that she has no complaint against the present applicant. Learned Counsel for the informant has also submitted that the affidavit is filed voluntarily. In this view of the matter, it would not be justified to deny anticipatory bail to the present applicant. Therefore, I am inclined to grant that order in his favour.

9. However, the circumstance in this case are quite disturbing. There are allegations against the police officers made by the first informant. There is a possibility that the informant has made contrary statements and has changed her version through her affidavit. The matter cannot be just ignored like this. Therefore, it is necessary to conduct an inquiry to take the matter

to its logical end.

10. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R. No 159 of 2020 registered with Dehu Road Police Station, Pune, 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 Commissioner of Police for Pimpri Chinchwad, is directed to appoint a high ranking police officer to conduct an inquiry in this episode. If, any police officer is found guilty, then suitable action be taken against him and if the informant is found to have made false serious allegations, then action be taken against her in accordance with law.
- (iii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)