

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

ANTICIPATORY BAIL APPLICATION NO. 1444 OF 2021

Premasagar Murlidhar Wagh ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Shadab B.Khopekhar, Advocate for the Applicant.

Mr. Y. Y. Dabake, APP for the Respondent – State.

Mr. G. C. Karodiwal (P. S. I.) Nayanagar Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 13th SEPTEMBER, 2021.

PER COURT:

1. This is an application for anticipatory bail. The applicant is apprehending arrest in connection with C.R. No. 384 of 2021, registered with Navghar Police Station, for the offences punishable under Sections 376(2)(a)(ii), (iii), 376(2)(k), 376(2)(n), 323, 504 and 506 read with Section 34 of Indian Penal Code (“IPC”, for short).

2. The prosecution case is that, the applicant and complainant are working in police department. The complainant joined Police force in 2008. From January-2021 she is attached to EOW, Thane. The complainant has alleged that she was harassed by the applicant. His behavior was not good towards complainant. He

was trying to be intimate to her. Applicant took interest in personal life of complainant. He picked up quarrels with her. She was assaulted and threatened. She was subjected to sexual assault in washroom. She was forced to record her objectionable videos. When the husband of complainant was not at home, accused was visiting her house and subject her to sexual relationship. Thereafter, there was physical relationship at another flat and lodge.

3. The contention of the applicant is that he has been falsely implicated. The applicant has not committed offence of rape. Both of them are attached to police department. The case of prosecution is based on presumption. Assuming the allegations to be true, the relationship was consensual. For some other reason FIR has been registered against the applicant. The arrest of applicant would jeopardize his employment. The allegations against the applicant are false. Specific date of incidents is not mentioned in the FIR. There is delay in lodging the FIR. It is further submitted that the medical case papers of the complainant indicate that she was undergoing stress after fight with her husband. The Whats app chats between the parties shows relationship was cordial. Custodial interrogation is not necessary.

4. Learned APP submitted that the complainant was a

police constable. She was continuously harassed by the applicant. She was helpless. She was subjected to sexual assault. It is further submitted that during the course of investigation statement of witnesses were recorded which indicate that the applicant and complainant were acquainted with each other. The applicant was visiting the residence of the complainant.

5. From the tenor of the FIR dated 21st May 2021 it can be seen that the applicant and the complainant are working in Police Department. The applicant is Police Head Constable. The initial part of the FIR indicates that the applicant tried to come close to complainant. She was abused and assaulted. Subsequently, it is stated that there was physical relationship between the applicant and complainant at her residence, when her husband was not at home. There was physical relationship between both of them at lodge and different flat premises. The statement recorded during the investigation indicate that the applicant used to visit the residence of the complainant. He was in relationship with one of the witness. The statement of mother of complainant mentions that she was informed by one lady that she is relationship with accused. They were residing together. Applicant had visited residence of complainant. She was residing with complainant to take care of

children. The complainant had shown the place of incidents, where she was subjected to physical relationship. During investigation, she took Police to lodge and flat as place of incidents of physical relationship. The applicant was granted interim protection by order dated 21st June, 2021. He was directed to attend the Investigating Officer. The said directions has been complied. The applicant has provided cell phone to the investigating officer as directed by this Court and hence, custodial interrogation of the applicant is not necessary.

6. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No. 1444 of 2021 is allowed;
- (ii) In the event of arrest of the applicant in connection with in C.R. No. 384 of 2021, registered with Navghar Police Station, 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 shall attend the investigating officer as and when called for till filing of charge-sheet.
- (iv) The applicant shall not tamper with the evidence and shall not approach the complainant or intimidate her in any manner.

(v) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)