

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

ANTICIPATORY BAIL APPLICATION NO. 1530 OF 2021

Kirit Manoharlal Gandhi Applicant

Versus

The State of Maharashtra Respondent

Mr. K. H. Giri i/b. Tanvi Chohan a/w. Gaurav Borse for Applicant.
Mr. Amit A. Palkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 07th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.38 of 2021 registered at Amboli Police Station, Mumbai, under sections 376(n)(2), 420, 500, 509, 506, 506(2) of the Indian Penal Code (for short 'IPC').
2. Heard Shri. Giri, learned counsel for the applicant and Shri. Palkar, learned APP for the State.
3. The First Information Report (for short 'F.I.R.') is lodged by the prosecutrix herself on 12/02/2021. It is not

necessary to refer to the entire allegations in the F.I.R. in the context of the present case because there are absolutely no allegations against the present applicant in respect of the main offence of rape. Those allegations are against the co-accused. In the F.I.R., only reference to the applicant is in the context of his work in the Collector's office at Bandra. The co-accused of the applicant had given liasoning work to the informant. All the allegations in the F.I.R. are specifically directed against the co-accused, who according to her, had committed rape on her and was continuously harassing her.

4. The applicant's role is mentioned by the informant in her supplementary statement recorded on 17/03/2021. In that statement, she has mentioned that, after that main incident of rape committed by the main accused, she was taken to the applicant's house and there the applicant had outraged her modesty. He had allegedly behaved in obscene manner with her.

5. Learned counsel for the applicant submitted that the applicant's name is implicated by the informant clearly as an afterthought only to pressurize him. There was no reason for her

to protect the applicant when she had lodged the F.I.R.

6. Learned APP produced supplementary statement of the informant before me. Learned APP fairly submitted that, in the F.I.R. there are no allegations against the present applicant.

7. I have considered these submissions. The very fact that there are absolutely no allegations of any offence against the present applicant in the F.I.R. is an important aspect in this matter. The F.I.R. was lodged after considerable period from the occurrence of the incident connected with the other co-accused. Even then, there is no allegation of outraging modesty against the present applicant. The supplementary statement is given by the informant on 17/03/2021. The F.I.R. was lodged on 12/02/2021. Even after more than a month the informant has not given details of the allegations made against the present applicant. There is only vague reference to the incident involving the the applicant which had taken place in his house. From the record, it appears that, such supplementary statement was given much belatedly and even then important details are not mentioned by the informant. Therefore, sufficient doubt is created against the prosecution story,

so far as, the present applicant is concerned. In this situation, the applicant's custodial interrogation is not justified. He can be protected by an order of anticipatory bail.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.38 of 2021 registered at Amboli Police Station, Mumbai, the applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)