

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

ANTICIPATORY BAIL APPLICATION NO.2288 OF 2019

Santosh Shankar Thakur Applicant

versus

State of Maharashtra Respondent

.....

- Mr.Ganesh Bhujbal, Advocate for Applicant.
- Mr.H.J. Dedhia, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 25th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.1115/2019 registered with Dehu Road Police Station, under sections 376, 354, (A), 452, 506 of the Indian Penal Code.

2. The FIR is lodged by the prosecutrix herself. She was a married lady. She has stated that since May 2019, the Applicant was trying to get friendly with her. On one occasion, he entered her house when no one was present. He left his mobile phone in

the house, though she did not want it. Thereafter he started contacting her using that mobile phone. It is alleged that the Applicant used to send obscene messages to her. If she did not reply, he used to threaten her that he would tell her husband that he had visited her house and that he had given her a mobile phone. Under these threats the prosecutrix did whatever he told her to do. She used to send him her photographs. He used to make one call at least in a day and used to send many messages throughout the day. On 06/06/2019, the Applicant called her to meet him at Akurdi Railway station. She went there. Then he again called her and asked her to come near Bank of Maharashtra. She went there. The Applicant came in a swift car. He asked the prosecutrix to sit in the car. He gave her a cold-drink. He took the car towards Aundh. She was feeling giddy. It is alleged that he had taken her Aadhar card from her purse. He took her to a lodge. It was 03.00 p.m. It is her case in the FIR that she was taken to a room. There she was made to drink another cold-drink. She felt further giddiness. After some time she woke up. That time she realized that the Applicant had

committed rape on her. After that, the Applicant threatened her, booked a cab for her and then she left. It is her case that since that day, she was scared and ultimately she took her husband in confidence and lodged this FIR.

3. Heard Mr.Ganesh Bhujbal, learned counsel for the Applicant and Mr.H.J. Dedhia, learned APP for the State.
4. Mr.Bhujbal submitted that the Applicant himself has given a complaint on 21/09/2019 against the prosecutrix and her husband. In that complaint, he has stated that they were threatening him. There are allegations that the prosecutrix herself had made advances towards him. He had refused. Her husband had subsequently threatened him to implicate him in a false rape case. Mr. Bhujbal therefore submitted that as a counterblast to this complaint, the FIR is lodged against him.
5. Learned APP produced the papers of investigation before me and opposed the application.

6. Though the APP has opposed this application, there are certain statements in the investigation papers which do not support prosecutrix's case. There are statement of two employees of the lodge, where the prosecutrix and the Applicant had gone and where allegedly the offence had taken place. In those two statements these witnesses have stated that the couple had came to their lodge at around 03.00 p.m. That time, the lady was walking properly and she was accompanied with her companion to that room. Even after that there was nothing noticeable about their behaviour. At about 04.30 p.m. the lady had left the lodge. These statements show that the prosecutrix's version that she was made to drink a spiked cold-drink before going to the lodge, does not appear to be true. From the investigation papers it appears that there was consensual relationship, though now both the parties are making allegations against each other.

7. The Applicant had given his own complaint prior to

this FIR. It is also significant that the prosecutrix used to receive obscene messages from the Applicant and yet she went to meet him at Akurdi Railway Station, sat in his car and went to a lodge. All this conduct does point to their consensual relationship. Therefore sufficient doubt is created about her case. The application is pending since 2019. The learned APP fairly states that the Applicant has cooperated with the investigation and has attended police station whenever called. In this view of the matter, custodial interrogation of the Applicant is not necessary. 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.1115/2019 registered with Dehu Road Police Station, 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 observations made in this order are only in respect of passing of this order. In future the trial Court shall not be influenced, if the occasion arise, by observations in this order.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)