

PMB

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2580 OF 2019**

Bhanudas Annasaheb Jadhav .. Applicant

vs.

The Senior Inspector of Police and anr. .. Respondents

**WITH
INTERIM APPLICATION NO.1444 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.2580 OF 2019**

Mamura Muzaffar Mamatkulova .. Intervener

IN THE MATTER OF

Bhanudas Annasaheb Jadhav .. Applicant

vs.

The Senior Inspector of Police and anr. .. Respondents

Mr. Rizwan Merchant a/w Mr. Faisal F. Shaikh, Mr. Sagar L. Shete I/b. Rizwan Merchant and Associates for the Applicant.

Mr. N.B. Patil, APP for the State.

Manisha A. Shirke, Police Inspector, Chembur Police Station, Mumbai present.

CORAM : M.S.KARNIK, J.

DATE : AUGUST 23, 2021

P.C.

Heard learned counsel for the Applicant and learned APP for the Respondents.

2. The Applicant is seeking pre-arrest bail in respect of the offences registered against him vide C.R. No.390 of 2019 of the

Chembur Police Station under Sections 376, 376(2)(a)(iii), 376(n), 377, 328, 313, 323, 504 and 506 of the Indian Penal Code, 1860 ('IPC' for short).

3. The prosecution case in brief is that the Applicant is a public servant working with the Maharashtra Police as a Police Inspector. The complainant is a Russian National of Uzbekistan. The FIR is registered on 10.10.2019 on the allegation that the complainant is a Russian National who was residing with her parents and four sisters in Uzbekistan. Post the retirement of her father and marriage of her two sisters, she came to India to seek a job as an actress. The complainant was on a six months visa. When the period was about to expire, she got in touch with one Mr. Mustaq who at the relevant time was working as a Rickshaw driver. The said Mr. Mustaq offered to help the complainant whereupon he introduced her to the Applicant who it is alleged was then working with the Immigration Department at Mumbai Airport. Thereafter, the Applicant started sending messages and calls to the complainant and claimed that he knows a number of well-known film producers and that he would help the complainant become a lead actress in films. It is further alleged that, in the year 2005, the complainant lost touch with the Applicant as she had lost her phone and in the year 2006 the complainant somehow got the phone number of the Applicant and found out that the applicant was then attached to the Anti-Narcotics Cell as a Senior Inspector. It is alleged that the Debit Card and Railway pass was then

prepared with the help of the Applicant. The Applicant told her that it would be difficult for him to make more documents in her original name and therefore prepared bogus documents in a new name.

4. It is alleged that the Applicant brought the original complainant to one hotel at Chembur. He offered her a bottle of Vodka spiked with drugs. The Applicant forced himself on her. Thereafter, it is alleged that the Applicant regularly started having physical relations with her and called her in different hotels at different locations. It is alleged that the Applicant even had unnatural sex with the complainant. When the complainant informed the Applicant that she is pregnant and asked him to marry her, the Applicant insisted that she should get the abortion done. Thereafter, it is alleged that there was no contact with the Applicant for six to seven months. The Applicant later apologised and started visiting the complainant's house regularly. It is alleged that since 2011, the Applicant regularly had physical relations with her and the same continued even after the complainant came to know that the Applicant had been suspended from his post pursuant to a rave party drug bust. It is alleged that some time in the month of December 2013, the original complainant again became pregnant. The Applicant converted to Islam, changed his name to Ali and married the complainant in December 2013. It is further alleged that on 16.04.2019 she gave birth to their child. Thereafter, the original complainant disclosed the alleged incidents to the Applicant's wife. He therefore got annoyed and started

beating her. It is alleged that the Applicant, complainant and their child travelled to Uzbekistan for sight-seeing. On 12.06.2019 the Applicant rushed back to India as he had received an urgent call from his department. It is on 20.06.2019, the original complainant returned to India.

5. It is also alleged that some time in the year 2016, the Applicant had taken one girl to his farm house at Palsi, Village Villa, District Pune and the said girl died due to overdose of drugs. The Applicant buried the dead body of the girl in the farm house. It is further her allegation that the girl's brother quarrelled with the Applicant and in the rage of anger the Applicant fired a bullet from his pistol at the said person in the presence of the original complainant pursuant to which the said person died on the spot. It is alleged that he was also buried in the vicinity of the said farm house and a cement concrete construction was put over it.

6. Learned counsel for the Applicant submitted that the relationship between the parties was consensual. He invited my attention to the document at Exhibit 'G' which is a Memorandum of Understanding reached between the Applicant and the complainant. As per the said understanding it was decided to settle all the differences between the parties and a lump sum amount of Rs.10,00,000/- was to be paid by the Applicant to the complainant.

7. It is the contention of learned counsel for the Applicant that a notice dated 11.09.2019 was issued by the Advocate for the complainant to the Applicant. The said document is not a part of the Petition and is tendered across the bar. Relying on the said notice, learned counsel for the Applicant submits that the present FIR which is filed on 10.10.2019 is nothing but an attempt to extract more money from the Applicant as in the said notice the complainant has demanded the maintenance of Rs.1,00,000/- per month towards the maintenance of herself and her son.

8. Learned APP opposed the application. It is pointed out that the offence alleged is serious and even there is an allegation that the Applicant committed a murder at his farm house in the presence of the complainant and buried the dead body in the area adjacent to his farm house. Learned APP pointed out that they have tried to investigate into the allegation of murder but were not able to trace the dead bodies.

9. The allegation in the present FIR is in respect of the offences pertaining to Sections 376, 376(2)(a)(iii), 376(n), 377, 328, 313, 323, 504 and 506 of the IPC. A reading of the complaint would indicate that the parties knew each other since 2005 and had physical relationship since 2011 on several occasions. It appears that they were in a consensual relationship and it is also alleged that the Applicant married the complainant and a child was born out of the said wedlock. The Applicant and the complainant had

visited the parents of the complainant along with their son. In this view of the matter, in my opinion, the custodial interrogation of the Applicant in respect of the present C.R. is not required as the relationship appears to be consensual.

10. So far as the allegations made against the Applicant that he has committed the murder of two persons as per the version of the complainant in the FIR, it is open for the Investigating Officer to proceed in accordance with law. The present FIR is against the Applicant in respect of the offences punishable under Sections 376, 376(2)(a)(iii), 376(n), 377, 328, 313, 323, 504 and 506 of the IPC. Though it the complainant's version that she witnessed the murder in 2016, she failed to report the commission of the cognizable offence. The complainant had demanded maintenance for her and her son from the Applicant. It is contended that pursuant to the mutual agreement a sum of Rs.10 lakhs was in fact paid. The Applicant, in my opinion, is entitled to pre-arrest bail. By an order dated 26.11.2019, the Applicant was directed to report to the Chembur Police Station on 28.11.2019 and 29.11.2019 between 10.00 a.m. to 12.00 noon. Learned counsel for the Applicant says that the Applicant not only attended the Police Station on two dates but has attended on the several occasion as and when he was called and the Applicant has co-operated with the investigation.

11. Hence, the following order :-

ORDER

(i) In the event of the arrest of the Applicant in respect of C.R. No.390 of 2019 registered with Chembur Police Station, the Applicant shall 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.

(ii) The Applicant shall not tamper with the prosecution evidence or in any manner try to contact, intimidate, threaten the complainant or any witnesses.

(iii) The Applicant is directed to report to the Investigating Officer on 30.08.2021, 01.09.2021 and 03.09.2021 between 10.00 a.m. to 12.00 noon and thereafter as and when called.

12. The Anticipatory Bail Application is disposed of.

13. In view of the disposal of the Anticipatory Bail Application, nothing survives for consideration in the Interim Application. The Interim Application is disposed of accordingly.

(M.S.KARNIK, J.)

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signed by
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MAKARAND
BHOGALE
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