

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 689 OF 2021

Ms. Sujata d/o Namdeo Masram

..vs..

State of Maharashtra, thr. P.S.O.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.M. Ukey, Advocate with Shri Tarun Parmar, Advocate for
applicant.

Shri S.D. Sirpurkar, A.P.P. for non-applicant/State.

S/Shri Abhay Bangde, Ajay Tote, Advocates – Assisting
Prosecution.

CORAM : VINAY JOSHI, J.

DATED : 16/12/2021

Heard.

2. This is an application seeking pre-arrest bail in Crime No.447 of 2021 registered with Sitabuldi Police Station, Nagpur City. At the instance of report dated 02.10.2021 lodged by the Informant – Niraj Shrivastav, the crime was registered for the offence punishable under Section 384 read with 34 of the Indian Penal Code. Later on, Section 385 of the Indian Penal Code has been added. The applicant-lady is arrayed as accused no.1 in the crime along with three others.

3. The applicant is seeking bail on the ground of innocence, false implication, inadequacy of evidence, etc,. Besides that it is her contention that informant – Niraj had raped her for which she has filed the police report. According to the applicant, in order to give

counter blast to said report, false complaint has been lodged by the Informant-Niraj. Moreover, it is the applicant's stand that the informant and his associates were illegally running Satta (gambling), in which the applicant was forced to indulge, hence, she left the job. Since the applicant insisted to pay her salary dues, she has been falsely implicated in the crime.

4. The non-applicant/State resisted bail by filing reply-affidavit. It is contended that the applicant along with her associates posing themselves to be a journalist, under threat of exposing illegalities have demanded sum of Rs.50 lakhs. The applicant allegedly prepared a project report about illegal activities and by giving threat, had tried to extort huge amount. There is involvement of associates of applicant as well as seizures are to be made therefore, custodial interrogation is necessary.

5. The informant - Niraj was an Editor of a Magazine namely "Power of One". In second week of September 2021, the applicant was employed in the Office run by said concern. Since the applicant was not properly doing the work, she was reprimanded. On 23.09.2021, in the afternoon, the applicant-lady barged in to the magazine Office with her three associates. They started to threaten the Office employees by saying that they had prepared a project report about illegal activities run by the Office. Moreover, they threatened that the project report

would be published, if the demand of Rs.50 lakhs has not been complied. They also started videograph the things. The informant stated that the applicant repeated that they are running a You Tube channel and if the amount is not paid, they would publish the project report exposing their illegalities.

6. It is the informant's case that some how they have pacified the applicant and asked to go away. On the following day, the project report was handed over to the Police. On 29.09.2021, the applicant again met and by reducing the demand insisted to pay Rs.12 lakhs, which was on negotiation, reduced to Rs.8 lakhs. Then on 01.10.2021, again the applicant telephonically asked one of the employee to pay the amount. The entire affair was came to be audio and video graphed. The applicant posing herself to be a Journalist, has tried to extort money by giving threats, hence the report.

7. The applicant submitted that, the Magazine Office was run by one Ajay Bagdi, who was indulging into an illegal gambling business. A copy of charge-sheet to that effect, is produced on record. Particularly, it is the applicant's case that as a counter blast to her grievance about rape case against the informant, false report has been filed. In this regard, the applicant has produced email communication dated 06.10.2021 sent to the Police. In said communication, she alleged that on 17th September,

2021, the informant Niraj has sexually assaulted her. She made such a grievance to the Management as well as demanded her salary, however, the Police did not take cognizance. According to the applicant, in retaliation, of complaint of sexual assault, false report has been lodged.

8. Pertinent to note that, existing report has been lodged on 02.10.2021 whilst the email communication was sent thereafter, *i.e.* on 06.10.2021. It is argued that on 23.09.2021, itself, the applicant made grievance to the Management, however, there is no supporting material. As per record, first time the grievance of sexual assault was raised by communication dated 06.10.2021 *i.e.* after lodgment of report. Since the said matter is under investigation, it is not desirable to make any comments upon the merits of the report lodged by the Informant. The fact remained that existing report is prior in time.

9. Perusal of case diary indicates that the Police have seized Spy Camera and the project report. *Prima facie*, the said material supports the informant's grievance that the applicant has tried to extort the amount by showing project report. It is the informant's case that the entire affair about threat and monetary demand, has been captured in Spy Camera. The said material is seized which requires to be verified during the course of the investigation. The Police have

recorded several statements in which the incident dated 23.09.2021 has been narrated in detail. All of them have specifically stated that at the time of occurrence, the applicant along with her associates came into the Office and raised huge monetary demand. Moreover, at relevant time, the applicant's associate has brought Video Camera and was recorded the things. These statements *prima facie* support the contentions raised by the informant.

10. *prima facie*, the applicant's complicity in the occurrence dated 23.09.2021, is evident. More particularly, it is supported by seizure of the articles. The investigation is at preliminary stage. The Police require to take voice sample of the applicant to verify the call recording. As per the prosecution, investigation is required on the point of preparation of project report and complicity of applicant's associates, whose identity is to be ascertained. The existing material *prima facie* suggests and points out the prominent role of the applicant in the offence of serious nature, therefore, custodial interrogation is necessary. In view of that, it is not a fit case to grant pre-arrest protection, hence, the application stands rejected.

11. Learned Counsel for the applicant seeks extension of interim order by stating that the applicant intends to approach to the Supreme Court. Considering the fact that the interim order is

operating since 14.10.2021, it is extended for a period of two weeks from the date of uploading of this order. The same shall cease to operate automatically thereafter.

JUDGE

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