

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.458 OF 2022

SANDIP LAXMAN PAWAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Harshad V. Nimbalkar i/b.
Mr. Rohit P. Patwardhan
APP for Respondent / State : Mr. A. A. Jagatkar
...

CORAM : S. G. MEHARE, J.

DATE : 20-06-2022

PER COURT :-

Heard the learned Advocate for the applicant and the learned A.P.P. for the respondent/State.

2. A vehement argument advanced on behalf of the learned counsel for the applicant is that the victim is married having two children. She was working with SBI Debit Card Department. The accused /applicant met her in one mall. They developed the relationship with a promise to marry. They did consensual sex many times. A false allegation of grabbing the amount of Rs.8 to 10 Lakhs from her has been made. He added that the various documents placed on record falsify her allegations of grabbing money from her. He would further submit that the complainant has grabbed the money from the applicant. On 03.02.2022, the

complainant entered the house of the applicant and abruptly started beating his wife. The wife of the applicant lodged a report against the complainant, alleging against her that by entering the house forcibly, she was inquiring about the applicant and saying that she had to take money from her husband. On a report, a crime was registered against the present informant. Two days later, an afterthought, false allegations of compromise, performing marriage with him on his conversion to Muslim etc., have been made against him. He would refer to the statement of the victim recorded in the crime registered against him on the report of the wife of the applicant. In the said statement, she has not stated a single word about sexual relations with the applicant. He has also referred to a bank account to show that the applicant has extended financial assistance to her. He has also argued that he has filed documents/photographs to prove that he did not meet the applicant on 20.12.2020. The substance of his argument is that since the applicant and the first informant had acquaintance, there was a money transaction. Since the wife of the applicant opposed the relationship with the first informant, she became aggressive and, hence, she has lodged a false report against him. He would lastly argue that nothing is to be recovered and discovered from the applicant. It was consensual sex. So far as giving the threat by the applicant to the first informant saying that he faced the murder trial, it would make no difference if he would

commit one more offence are the false allegation. On the contrary, while granting him bail, this Court has observed that the main accused was wearing the shirt of the present applicant, which was ultimately seized from the house of the present applicant. He has no role to play in the said offence. He prays for anticipatory bail.

3. Learned APP has strongly opposed the application contending that at the relevant time, the applicant was a Police Constable at Cantonment Police Station. He was well aware of the offence of a sexual relationship with a married woman. The offence is serious. The applicant being a police constable, must influence the first informant. He referred to her statement under Section 164 of the Code of Criminal Procedure and bank account showing that the victim has transferred money to the account of the applicant. He would submit that the money paid by the victim is to be recovered from the applicant. Hence, the application may be rejected.

4. The argument advanced by the learned counsel for the applicant and learned APP for the respondent/State reflects that there was consensual sex and there was also a money transaction between them. However, there are no allegations made by the victim against the applicant that he ever influenced her in his post as constable. Their relationship appears to come to the light when the victim entered the house of the applicant on 03.02.2022 and

the wife of the applicant lodged the report. There appears substance in the argument of learned counsel for the applicant that the statement recorded in the crime registered against her did not utter a single word about the differences in having sexual intercourse. It was simply a money dispute. It is also not disputed by the other side that the victim beat the wife of the applicant, alleging that she has to recover money from the applicant. The age of the victim is material. She has consensual sex with him by hiding it from her spouse.

5. Be that as it may, the question before the Court is whether custodial interrogation of the applicant would be necessary or required to make the investigation uninfluential. It appears from the record provided by the learned APP that there was a money transaction, and money was to be recovered. The foremost allegations levelled against the applicant are apparently serious. There was an abortion. The Investigating Officer has to make a detailed investigation of their relationship and the consequences and reasons for getting the first informant pregnant and her abortion. Though the evidence of the absence of the applicant on 20.12.2020 is produced, he has admitted the relationship with the victim. The applicant is in the police service. The possibility of influencing the Investigating Officer cannot be ruled out. For a fair investigation, the prosecution should not be interfered with by the applicant, and there should be a reasonable investigation; this

Court is of the view that it would be inappropriate to release the applicant on anticipatory bail. The money is to be recovered to prove the crime. Noting the seriousness of the offence, this Court is not inclined to allow the application. Hence, the application stands rejected.

(S. G. MEHARE)
JUDGE

rrd