

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

20 ANTICIPATORY BAIL APPLICATION NO.811 OF 2022
WITH APPLN/2082/2022 IN ABA/811/2022

NITA BHARATSING PARDESHI
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Savale Amit S.
APP for Respondent-State : Mr. S. B. Narwade.
Advocate for Informant to assist APP : Ms. Rashmi S. Kulkarni.

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CORAM : S. G. MEHARE, J.
DATE : 10.08.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent / State with learned counsel Ms. Kulkarni, assisting the learned APP.

2. The facts of the case have been elaborately discussed by this Court in its order dated 13.07.2022 ; hence, to maintain the brevity, those are not reproduced. It seems that both the complainant as well as the applicant have lodged the report against each other. On the report of the complainant, the crime committing the sexual offence was registered against the complainant. However, subsequently the said FIR was quashed. The complainant himself has a case that the incident happened

in the year 2019. He went to lodge the report but he did not lodge the report. The complainant and the applicant have a series of litigations and as well as allegations against each other.

3. The learned counsel for the applicant would submit that this is nothing but a counter after the quashment of the FIR lodged against the complainant. Everything was disclosed to the complainant and he was knowing well that the complainant is not divorcee. Therefore, interim protection may be confirmed.

4. Learned APP has strongly opposed the application. He has referred to the statement of the landlord and vehemently argued that there is a direct evidence against the applicant that she has removed the articles from the room in the absence of the complainant. He has also argued that the delay in lodging the FIR is caused due to the FIR registered against the complainant under Section 376 with other Penal sections. He has argued that the custodial interrogation of the applicant is necessary to recover the cash and articles which were owned by the complainant.

5. The inordinate delay has been orally explained in the Court today. The complainant and the applicant are making

allegations against each other. The complainant had been to the Police Station in the year 2019-2020 to lodge the report. However, the reason best known to him why he has not lodged the report. The delay in lodging the FIR appears not convincing. The incident happened in the month of November 2019 and the complainant was knowing about it. The complainant and the applicant were living together in a rented room. They had some discords. Therefore, both of them have lodged the report against each other.

6. Considering the facts of this case, this Court is of the view that the custodial interrogation would not serve the purpose. Hence, the following order :

ORDER

- (i) Application is allowed.
- (ii) The interim protection granted by this Court by an order dated 13.07.2022 is confirmed on the condition that the applicant shall attend the Police Station on a written notice by the Investigating Officer.
- (iii) Criminal Application No.2082 of 2022 is allowed.

(S. G. MEHARE, J.)

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vmk/-