

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

925 CRIMINAL APPEAL NO.480 OF 2022

SHAH SAMEER S/O. SAMAD (KALU) SHAH
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Appellant : Mr. Mohsin Khan Masood Khan.
APP for Respondent/State: Mr. R. D. Sanap.
Advocate for Respondent No.2 : Mr. Manoj U. Shelke.
...

CORAM : **SHRIKANT D. KULKARNI, J.**
DATE : 15th September, 2022.

PER COURT:

. Feeling aggrieved by the order of rejection of anticipatory bail passed by the learned Special Judge, Aurangabad in Anticipatory Bail Application No.1140 of 2022, by filing the appeal, the present appellant sought the same relief.

2 Heard Mr. Mohsin Khan, learned counsel for appellant, Mr. Sanap, learned APP for respondent No.1 / State and Mr. Manoj Shelke, learned counsel for respondent No.2.

3 Mr. Khan, learned counsel for the appellant submitted that utterly false story is put forth by the victim in the FIR, which is subsequently lodged. Initially, she has lodged complaint with the

police regarding altercation of words and threats. There was no whisper about such serious allegations of blackmailing her by using her obscene photographs and video. He submitted that this quarrel cropped up only because of rent dispute between the parties. The first informant is residing as a tenant in the house of the uncle of the appellant. There was no such incident as narrated by the first informant / victim in the FIR. He invited my attention to the report submitted by the Police Station Officer, Sillod Rural addressed to the Taluka Executive Magistrate, Tahsil Office, Sillod dated 7th June, 2022. He submitted that in view of the complaint filed by the victim, bond was obtained in view of chapter case under Section 107 of the Indian Penal Code, which has completely ruled out the allegations made against the present appellant.

4 Mr. Khan submitted that the appellant is studying in the college. He has very bright future. If he is arrested, his education career would be at peril. He has no criminal antecedents. He is ready to handover the mobile handset to the police and cooperate to the investigation agency. He, therefore, urged to grant anticipatory bail to the present appellant by allowing this appeal.

5 Per contra, Mr. Sanap, learned APP for the respondent / State opposed to allow this appeal. He submitted that since the date

of registration of the crime, the appellant is absconding. The investigation is held up since he is not available. He submitted that in view of serious allegations levelled against the appellant, his custodial interrogation is necessary to recover the mobile handset, photographs and the video shooting. He submitted that the prosecutrix / victim belongs to scheduled tribe. Her caste certificate is also placed on record. The statement of the victim is also recorded by the learned Judicial Magistrate First Class under Section 164 of the Code of Criminal Procedure. He, therefore, urged to dismiss the appeal.

6 Mr. Manoj Shelke, learned counsel for respondent No.2 / victim argued on similar lines and strongly opposed to allow this appeal. He submitted that the FIR came to be registered only after intervention of the Superintendent of Police. He further submitted that after registration of the crime, the victim is receiving threatening calls and she is under constant fear.

7 I have considered the submissions of both the sides. I have also gone through the copy of FIR, copy of statement recorded under Section 164 of the Code of Criminal Procedure and the report of the concerned investigation officer.

8 On going through the copy of FIR, it would reveal that Crime No.170 of 2022 came to be registered at Sillod Rural Police

Station on the basis of FIR lodged by respondent No.2 / victim for the offences punishable under Sections 354-A, 354-C, 354-D and 506 of the Indian Penal Code and Sections 3(1)(w), 3(1)(w)(i), 3(1)(w)(ii) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. On going through the copy of FIR (page No.13), it would reveal that the alleged incident had taken place on 5th June, 2022 in front of the house of the victim and the criminal law put in motion on 9th June, 2022. It is alleged in the FIR that on 5th June, 2022, when the victim was standing alongwith her two small children in her courtyard, the appellant reached there and disclosed that he has taken her photographs while taking bath and so also video shoot. The appellant insisted to maintain physical relationship with him otherwise he would blackmail her by making viral photographs and video shoot. He was expecting physical relations from the first informant / victim by giving threats. I have also perused the report submitted to the Taluka Executive Magistrate on 7th June, 2022, whereby the police seem to have taken preventive action against the present appellant. However, on going through the copy of FIR, it would reveal that serious allegations are levelled against the appellant. The victim belongs to scheduled tribe. The appellant alleged to have taken her photographs when she was taking bath and so also video shoot. He is allegedly blackmailing to the victim to viral those photographs and video shoot if she did not fulfill his demand for sexual favour. It appears from the

statement recorded by the learned Magistrate under Section 164 of the Code of Criminal Procedure that she stuck to her FIR by disclosing the same incident and narrating the same story. Under these circumstances, it is difficult to accept that the victim has cooked up the story and it is an utterly false case. It appears from the report submitted by the investigation officer that since the date of registration of the crime, the appellant is not available. He has absconded and as such investigation is held up. Having regard to the serious nature of offences and in view of the allegations of taking obscene photographs and video shoot, certainly custodial interrogation with the appellant and recovery of mobile handset is very much necessary. The caste certificate of the victim is also placed on record, which indicates that the victim belongs to scheduled tribe and accordingly, the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act are also applied in the crime, which provides bar to grant anticipatory bail.

9 Having regard to the reasons and discussion, no case is made out to grant anticipatory bail. The appeal is devoid of merits. The appeal stands dismissed.

[SHRIKANT D. KULKARNI, J.]