

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

918 ANTICIPATORY BAIL APPLICATION NO.1467 OF 2021

SUNITA D/O. TUKARAM PACHARE

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Hange Rajendra G. Hange Anirudh R.

APP for Respondent-State : Mr. N. T. Bhagat

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CORAM : SMT.VIBHA KANKANWADI, J.

DATE : 20-01-2022

PER COURT :

1. Applicant is apprehending his arrest in connection with Crime No.552 of 2021, registered with Kadim Jalna Police Station, District Jalna, for the offence punishable under Section 307 of the Indian Penal Code.
2. Heard learned Advocate Mr. R. G. Hange for applicant and learned APP Mr. N. T. Bhagat for respondent-State.
3. It has been vehemently submitted on behalf of the applicant that

the applicant has been falsely involved and the present First Information Report is the counter-blow to the First Information Report that was lodged by the applicant against the informant on 06-11-2021 at 21.09 hours with Kadim Jalna Police Station, for the offence punishable under Section 354, 452 of the Indian Penal Code. That incident had taken place around 05.00 p.m. and in the present First Information Report it is stated that the incident had taken place around 04.30 p.m. The applicant is serving as 'Anganwadi Sevika'. It is falsely contended that she had love affair with the informant and the informant has extended amount of Rs.5 lakh to her, and thereafter, her brother-in-law Eknath Kamble had given phone call to the informant on 04-11-2021 and demanded amount of Rs.10 lakh for the promotion of the applicant for the post of C.D.P.O. In fact, that post can be filled only through a competitive examination to be conducted by Maharashtra Public Service Commission. The applicant is a married woman, residing with her husband and two children as well as mother-in-law. The mother-in-law was at home at that time, and therefore, there was no question of administration of poisonous substance by the applicant to the informant. No history appears to have been given to the hospital that the said poisonous substance was administered, and therefore,

the physical custody of the applicant is not required. Interim protection, granted earlier to the applicant, deserves to be confirmed.

4. Per contra, the learned APP has strongly opposed the application and submitted that the physical custody of the applicant is required for the purpose of further investigation. The offence that has been committed is serious in nature. The hospital papers definitely state that the informant had complained about the poisonous substance, that is the medicine used for killing rats. Further, the informant is clearly contending that there was love affair between him and the applicant and on her say he went to her house. There was dispute on account of giving of that amount of Rs.10 lakh which was in fact the message conveyed by the brother-in-law of the applicant. The informant states that earlier also she had taken around Rs.5 lakh from the informant. Therefore, there appears to be allegations against each other and for that purpose the investigation deserves to be made for which physical custody of the applicant is required.

5. At the outset, it is to be noted that the First Information Report that has been lodged by the applicant against the informant

appears to be prior in time. She had made allegations involving offence under Section 354, 452 of the Indian Penal Code, and claimed that she was knowing the present informant only on the basis that his mother and the mother-in-law of the applicant were the members of a 'Bachat Gat'. That incident is stated to have taken place at about 05.00 p.m. Now, as regards the present First Information Report is concerned, the incident is stated to have taken place around 04.30 p.m. on 06.11.2021. He was taken by one Pawan Mane who was then called by the applicant himself as per the First Information Report, and it appears from the document collected from the Civil Hospital that the informant was examined on 06-11-2021, but the time is not appearing. Though it is stated that there is history of rat kill poisoning (Ratol), it appears that thereafter he was shifted to Shrikrishna Hospital, Jalna, and he was examined at that place at about 06.20 p.m. The history is stated to be consumption of Ratol paste one hour prior to admission. Relationship of the person who admitted the informant to Shrikrishna Hospital, is stated to be brother. However, at the time of immediate examination of the informant, no external injuries could be seen. The word 'administration' is not used, but 'consumption' is used by the concern doctor. Police papers would disclose that on 08-11-2021, a

panchanama has been drawn at about 04.00 p.m by which the Ratol plastic bottle and clothes of the informant, have been seized. But the name of the person who produced those articles is Pawan Mane. Further, police papers would show that statement of mother-in-law and brother-in-law of the applicant have been recorded, which is not in favour of the prosecution in its entity. Statement of Pawan Mane would show that the informant had kept his phone with him when the informant went to the house of applicant. He then received phone call from the applicant stating that he should take away the informant from her house. When he went to the house of applicant, he could see the informant in pain and he was not able to stand properly, was having sweating and when he asked the informant as to what has happened, then the informant showed him bottle of medicine to kill Rats, which he was holding in his hand. Thereafter, Pawan Mane took that bottle in his hand and took informant to Civil Hospital. Therefore, taking into consideration the evidence that has been collected up till now and also the fact that panchanama of the spot has been carried out, so also the bottle has been seized, the physical custody of the applicant is not required for the purpose of investigation. The interim protection granted by this Court on 03-12-2021 deserves to be confirmed. Accordingly the following order

is passed.

ORDER

- 1) Application stands allowed.
- 2) The interim protection granted by this Court on 03-12-2021 to the applicant Sunita d/o Tukaram Pachare stands confirmed. In other words, in the event of arrest of the applicant, in connection with Crime No.552 of 2021, registered with Kadim Jalna Police Station, District Jalna, for the offence punishable under Section 307 of the Indian Penal Code, she be released on PR and SB of Rs.20,000/- (twenty thousand) with one or two sureties in the like amount.
- 3) She shall not tamper with the evidence of the prosecution in any manner.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.