

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

ANTICIPATORY BAIL APPLICATION NO.1622 OF 2021

Harun Ismailsab Mullawale

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.S.J. Salunke Advocate h/f. Mr. Ameya N. Sabnis
Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 20th JANUARY, 2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.544 of 2021 registered with Chikalthana Police Station, Aurangabad for the offence punishable under Sections 354, 354-D, 323, 504, 506 of the Indian Penal Code.
2. Heard learned Advocate Mr. Salunke holding for learned counsel Mr. Sabnis for the applicant and learned APP Mr. Phule for respondent - State.

3. It has been vehemently submitted on behalf of the applicant that even if we consider the First Information Report as it is, the physical custody of the applicant is not required for the purpose of investigation. Learned counsel for the applicant points out that the informant had lodged similar complaint / First Information Report against another person vide Crime No.379 of 2021 with the same Police Station. The copy of that First Information Report would indicate that same kind of story has been given. This shows that it is nothing but a trap. It is the *modus operandi* of the informant to establish acquaintance and then taking disadvantage of the chats or talks either to extract money or to lodge reports against those persons. The First Information Report lacks in giving details as to how the offence has been committed, when it is committed, that means as regards the chats are concerned. It proves the falsity, so also it can be seen that it is belatedly lodged and therefore, the applicant deserves to be released on anticipatory bail.

4. Per contra the learned APP strongly opposes the application and submits that lodging of the report by the informant against another person cannot be utilized by the applicant for claiming anticipatory bail. First Information Report

is not an encyclopedia and therefore, it cannot be stated to be false merely because the particulars are absent. It is then required to be seen from which Mobile the present applicant had given messages and calls to her. Further, it is alleged against the present applicant that he used to insist the informant that she should marry him by converting herself and therefore the offence is serious. Applicant does not deserve anticipatory bail.

5. At the outset, it is to be noted that First Information Report has been lodged by the lady aged 37 years and she states that she resides alone in the rented premises. She then states that she met with applicant through Facebook and thereafter they used to chat with each other as well as talk with each other. She was unable to remember the Mobile Number of the applicant but then she states that the applicant used to give phone calls to her on different Mobile Numbers. She states that applicant behaved with her properly for about a month and thereafter she found his behaviour suspicious and therefore she told him that he should not talk to her and give messages to her, yet, he was insisting that she should marry him by converting herself. She then states that she has changed her Mobile Numbers but then applicant used to follow her and personally

used to give threats and insistence that if she does not perform marriage with him she would be killed.

6. Perusal of the First Information Report would then show that it is vague, particulars are not given as to place, date, time about the alleged meeting by the applicant and stalking. Except Section 354 of the Indian Penal Code other sections are bailable. Note will have to be taken about the similar First Information Report lodged by the same informant against another person with the same Police Station. That First Information Report has been lodged on 10th August 2021 for the offence punishable under Sections 354, 354-D, 506 of the Indian Penal Code. Police papers do not show that from the informant any evidence regarding messages, call details or chats have been collected. Under such circumstances, physical custody of the applicant is not required. He deserves to be released on anticipatory bail. Hence, following order is passed:-

ORDER

- i) Application stands allowed.

ii) In the event of arrest of applicant – Harun Ismailsab Mullawale in connection with Crime No.544 of 2021 registered with Chikalthana Police Station, District-Aurangabad for the offence punishable under Sections 354, 354-D, 323, 504, 506 of the Indian Penal Code, he be released on bail on P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand) with one or two solvent sureties in the like amount.

iii) The applicant shall remain present before the Investigating Officer on every Sunday between 10.00 a.m. to 2.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

iv) The applicant shall not tamper with the evidence of the prosecution in any manner.

[SMT. VIBHA KANKANWADI , J.]