

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 302 OF 2022

Shivaji Baban Bhosale

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. S.N. Biradar for the Applicant.

Mr. S.R. Agarkar, APP for the Respondent/State.

Mr. Sujay Gangal for the complainant.

CORAM : C.V. BHADANG, J.

DATE : 4 FEBRUARY 2022
(Through Video Conferencing)

P.C.

1. The Applicant, apprehending his arrest, in connection with the investigation of Crime No.594 of 2021 registered with Satara Taluka Police Station, Dist. Satara under Section 376, 376(2)(n), 376(2)(c), 504 and 506 of I.P.C. is seeking pre-arrest bail.

2. The Applicant is an Assistant Police Inspector (API) attached to Police Station Satara. The Applicant is married and has two children. The Applicant had allegedly remarried the victim, who is a divorcee on 25.01.2019. Subsequently, a formal

ceremony of marriage as per the religious rites was performed on 20.02.2020.

3. According to the first informant, who is a lady aged about 30 years, the Applicant had repeated sexual intercourse with her claiming that the Applicant is her husband. It appears that the informant lodged FIR on 18.05.2020 for an offence under Section 498-A and 417 of IPC (subsequently Section 376 and 323 were added), on the basis of which an offence at Crime No. 376 of 2020 was registered against the Applicant with Police Station Satara City. Undisputedly, the investigation of the said offence is complete and the chargesheet is filed and the Applicant is released on bail. On 02.08.2021, the informant filed a second FIR against the Applicant again alleging offence under Section 376, 323, 417, 504 and 506 of IPC in respect of which an offence of Crime No. 282 of 2021 is registered at Police Station Sangvi, District Pune. Here also, the Applicant has been granted pre-arrest bail by the learned Sessions Judge on 24.11.2021. The present FIR is the third FIR by the first informant alleging that the Applicant had assured the victim that now he will cohabit with her peacefully and would divorce his first wife and saying so, she was taken to a Resort where both of them stayed for 2 days and the Applicant had sexual intercourse with her at the said resort.

4. Perusal of the FIR shows that principally the first informant was aggrieved by nature of the inquiry conducted in a complaint lodged by her on 28.08.2021 with the Directorate General of Police and other functionaries.

5. I have heard the learned counsel for the parties. Perused record.

6. Prima facie, it appears that according to the complainant, there was a ceremony in the nature of marriage gone into between the parties. It is pointed out by the learned counsel for the Applicant that the victim has filed an application for maintenance against the Applicant which is pending before the Family Court at Pune. He, therefore, pointed out that the first informant atleast till today has not disowned her status as a wife. Be that as it may, the fact remains that the victim is a grown up lady. She is a divorcee and prima facie it appears that for about 2 days, she had stayed with the Applicant at a Resort where allegedly they had sexual intercourse. The learned Sessions Judge has refused to grant anticipatory bail in the present crime, *inter alia*, on ground that there is a breach of condition of the anticipatory bail granted in the earlier crime, which cannot be countenanced.

7. The learned counsel for the complainant/victim states that an application for cancellation of bail earlier granted on the ground of breach of condition, is already pending before the

learned Sessions Judge. If that be so, it is for the learned Sessions Judge to decide that application on its own merits and in accordance with law. That in my considered view cannot come in the way of grant of pre-arrest bail in this crime.

8. Hence, the following order is passed:

i) In the event of his arrest, in connection with the investigation of Crime No.594 of 2021 registered with Satara Taluka Police Station, Dist. Satara, the applicant shall be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The applicant shall report to the Investigating Officer on 9th and 10th February 2022 between 11.00 a.m. to 1.00 p.m. and as and when required by the Investigating Officer.

iii) The applicant shall co-operate with the Investigating Agency and shall not tamper with the prosecution evidence/witnesses.

9. The Criminal application is disposed of in the aforesaid terms.

(C.V. BHADANG, J.)