

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.3168 OF 2021

Dilip Indermal Kothari Applicant
Versus
The State of Maharashtra Respondent

Mr. Gaurav Parkar, Advocate for the Applicant.
Shri Ajay Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 11th JANUARY, 2022
[Through Video Conferencing]

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R.No.1291/2021 dated 26.10.2021 registered at Waliv Police Station, Mira-Bhayander Vasai-Virar on 26.10.2021 under Sections 376, 402, 328, 504, 506 of the Indian Penal Code.

2. Heard Shri Gaurav Parkar, learned counsel for the applicant and Shri Ajay Patil, learned APP for the State.

3. The FIR is lodged by the prosecutrix herself. She has stated that she was 47 years of age at the time of lodging

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of the FIR. She was residing with her husband and two sons aged 25 and 20 years respectively. She was acquainted with the applicant since 1998 as the applicant was residing in the neighbourhood. In April, 2001 the applicant started residing at Bhiwandi and he kept in touch with the first informant. He had shown interest in the informant, however, she had ignored him. In October, 2016, the applicant suggested that she should take interest in the partition of informant's property and the money of her share could be invested as per his suggestion. The FIR goes on to mention that since 2017 various amounts were transferred by the informant in favour of the applicant and his family. There are allegations that on one occasion, the informant gave her ornaments worth Rs.15 Lakhs. Those ornaments were misappropriated. On 20.10.2021, the applicant called the informant's son and told him that he wanted to return the informant's money and ornaments and, therefore, the applicant asked the informant to reach a hotel at Ghodbunder road. The informant reached that hotel at about 10:00 a.m. She was asked to sit in a car. It

is her case that the applicant then made her drink an intoxicated drink and under its influence she was taken to a hotel room. It is her specific case that, there the applicant committed forcible sexual intercourse when she was unconscious. He told her that he had taken video shooting and threatened to make it viral. The informant came home with the ornaments given by the applicant. She showed those ornaments to a jeweller, and it was found that the ornaments were imitation jewellery. She realized that she was not only cheated but a serious offence was committed against her. On these allegations, the FIR was lodged.

4. Learned counsel for the applicant submitted that both the parties were knowing each other since last many years. The allegations are false. It is not believable that the informant was taken to a hotel room against her wish. He submitted that even after all these allegations, the informant has returned some amount to the applicant, which shows that she has not suffered financially at the hands of the applicant.

5. Learned APP opposed this application. He

produced the investigation papers before me, which contains the statement of Hotel Manager who has stated that the applicant and the informant had occupied a room in that hotel on that particulate day. The investigation papers also contain statement of the informant recorded under Section 164 of Cr.P.C.

6. I have considered these submissions and I have also perused the investigation papers. At this stage, it is difficult to disbelieve the version of the informant in the FIR as well as in her statement recorded on oath under Section 164 of Cr.P.C. Therefore, at this stage it is not possible to record that the informant is not telling the truth. The matter is still under investigation. The offence is serious. The applicant's custodial interrogation is necessary. No case for grant of anticipatory bail is made out. Hence, the application is rejected.

(SARANG V. KOTWAL, J.)