

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

ANTICIPATORY BAIL APPLICATION NO.3169 OF 2021

Asharam Omprakash Khatri Applicant
versus
State of Maharashtra Respondent

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- Ms.Dimple Joshi a/w Krishna Khatri a/w Hiral Joshi, Advocate for Applicant.
- Smt.A.A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 03rd JANUARY 2022

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.321/2021, registered with Hill Line Police Station, Thane City, under sections 376, 376(2)(n), 506 of the Indian Penal Code.

2. Heard Ms.Dimple Joshi, learned counsel for the Applicant and Smt.A.A. Takalkar, learned APP for the State.

3. The FIR is lodged by prosecutrix herself. She is mother-in-law of the Applicant. She has stated that, in the year 2017,

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she was residing with her family consisting of husband and two daughters in an apartment at Ulhasnagar-5. The Applicant was secretary of that building and therefore he used to visit their house in connection with the maintenance work, accepting bills etc. In January 2018, he came to the informant's house when she was alone. He tried to establish good relations with her. It is further mentioned in the FIR that on next occasion he again went to her house when she was alone and tried to get physically close with her. It is alleged that, he threatened her that he would defame her if she did not oblige. This happened in the month of February 2018.

4. The FIR mentions that subsequently her daughter developed love relations with the Applicant. The informant and her family got them married on 15/06/2018. The informant's daughter gave birth to her son on 24/07/2019. It is alleged that in February 2020, the Applicant came to the informant's house when she was alone and demanded physical relations. The informant refused. In spite of that, against her wish, he

established physical relations with her. It is alleged in the FIR that when she woke up in the afternoon, she realized that the Applicant had kept physical relations with her.

5. In December 2020 the informant's daughter fought with the Applicant and came back to reside with the informant at Ulhasnagar. In January 2021, the informant told her husband about the incidents of December 2019 and February 2020, when the Applicant had kept physical relations with her. After that the informant and her family approached the police station and lodged this FIR.

6. The learned counsel for the Applicant submitted that only after the informant's daughter had fought with the Applicant and had left his house, these false allegations are made. She submitted that the Applicant had initiated divorce proceedings against the informant's daughter on 08/03/2021. The informant's daughter herself had initiated proceedings under The Protection of Women from Domestic Violence Act, 2005, on 24/11/2021 and after all these this FIR is lodged on

02/12/2021. Thus there is a clear attempt to pressurize the Applicant and to implicate him falsely.

7. Learned APP, though opposed this application, could not support the allegations in the FIR. She only submitted that the Applicant be directed to attend the police station. She submitted that the informant has given supplementary statement and has made allegations under section 377 of the IPC.

8. I have considered these submissions. The allegations in the FIR do not inspire confidence about their truthfulness. The FIR describes as to how the Applicant had misbehaved with the informant in the month of February 2019 and yet she willingly allowed the Applicant to marry her daughter. This conduct itself is unnatural. The alleged incident of physical relations were from December 2019 and February 2020. The FIR is lodged on 02/12/2021 after the Applicant and informant's daughter had taken action against each other. The allegations of offence under section 377 of IPC are also made at belated stage by way of supplementary statement.

9. Considering overall allegations in the FIR, at this stage sufficient doubt is created about the prosecution story. However, it would not be appropriate to comment anything further at this stage. The Applicant has made out case for grant of anticipatory bail. As submitted by learned APP, the Applicant can be directed to attend the police station and co-operate with the investigation.
10. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.321/2021, registered with Hill Line Police Station, Thane City Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)