

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.134 OF 2023

Tukaram Maruti Raykar

...Applicant

Versus

The Superintendent Of Police, Ahmednagar
And Another

...Respondents

Mr. R.R. Karpe, Advocate for applicant.

Mr. V.S. Badakh, APP for respondents.

Mr. M.B. Sandanshiv, Advocate for informant/Assist to PP.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 9th FEBRUARY, 2023

ORDER :

1. Applicant apprehends arrest in Crime No. 1 of 2023, registered with Mirajgaon Police Station, Ahmednagar, for offence punishable under section 376, 504 and 506 of the Indian Penal Code.

2. Prosecutrix lodged FIR alleging that between year 2019 to 2022 applicant, who is Gramsevak has forcibly kept physical relations with her, on the pretext that he will grant her Gharkul and give her job. From time to time, he used to come to the house of prosecutrix and established physical relations. At

times, she was taken to lodge and they had physical relations there. In July-2022, when prosecutrix asked him as to when he will give her job, applicant got enraged and abused her and told her that if she discloses their physical relations, he will kill her. Prosecutrix claims that she was in frightened condition and therefore she could not lodge FIR immediately. FIR is lodged on 06.01.2023.

3. Heard the learned advocate for the applicant, learned Additional Public Prosecutor and learned advocate for prosecutrix. Perused the investigation papers.

4. Prosecutrix is married lady aged 33 years. There is delay of more than 7 to 8 months in lodging FIR. Prima facie, it appears that relations between applicant and prosecutrix were consensual.

5. Learned Additional Public Prosecutor submits that for medical examination and for recovery of motorcycle and clothes worn by the applicant at the time of alleged offence, his custody is necessary. He further submits that relatives of the applicant are giving threats to the prosecutrix and her sister to withdraw

the FIR lodged against the applicant. He therefore, submits that applicant does not deserve anticipatory bail.

6. Learned advocate for informant submits that the applicant had obtained videos of physical intimacy of prosecutrix and himself and for recovery of said videos, custody of the applicant is necessary.

7. Taking into consideration delay in lodging FIR, no useful purpose would be served by recovering the clothes worn by the applicant at the time of alleged incident. For medical examination the applicant can be directed to attend the concerned police station and make himself available for medical examination. Applicant is a Gramsevak and he is serving in different village.

8. There is no merit in the submission of learned advocate for informant that applicant had obtained videos of physical intimacy which are required to be recovered from the applicant. This is not even the case of the informant in the FIR and no such statement is found in the investigation papers.

9. Considering these facts, application is allowed.

10. In the event of arrest of applicant in connection with Crime No. 1 of 2023, registered with Mirajgaon Police Station, Ahmednagar, for offence punishable under section 376, 504 and 506 of the Indian Penal Code, applicant shall be released on executing personal bond of Rs. 15,000/- with one surety in the like amount.

11. The applicant shall attend the concerned police station from 13th February, 2023 to 18th February, 2023, everyday, between 10.00 am to 2.00 pm and shall co-operate in the investigation. Applicant shall make himself available for medical examination and produce motorcycle, which is allegedly used by him at the time of offence.

12. The applicant himself or through his relatives shall not try to influence the prosecution witnesses and/or relatives of the prosecutrix. The applicant shall not enter the village in which prosecutrix is residing.

13. Till filing of charge sheet, applicant shall attend the concerned police station as and when called by the investigation officer. The applicant shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]