

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 556 OF 2023

Ajit s/o Bharat Biradar

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. P. P. Giri, Advocate for the applicant.

Mrs. G. L. Deshpande, APP for the State.

Mr. V. T. Patil, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 9th JUNE, 2023.

PER COURT :

1. Applicant apprehends arrest in connection with Crime no. 45/2023 registered with Nilanga Police Station, Tq. Nilanga, Dist. Latur, for the offences punishable under Sections 498A, 377, 327, 323, 504, 506 read with Section 34 of the Indian Penal Code and Section 66(E), 67 and 67(A) of Information Technology Act.

2. Informant is the wife of the applicant who has stated about performance of their marriage on 26th January, 2021. It is further stated that after marriage, both went to New Delhi for cohabitation as the applicant is employed there. It is alleged in the First Information Report that applicant used to perform unnatural

sex with her and the said act has been done repeatedly. There is further allegation that though this fact was brought to the notice of the inlaws of the informant, they did not support her and per contra, she was threatened by them to publish her obscene photographs and videos. Specific statement to that effect is found in the First Information Report that the applicant, his parents and other relatives have issued such threats.

3. Learned counsel for applicant states that compromise has taken place between the parties wherein the informant has agreed to accept sum of Rs. 18,00,000/- and gold ornaments. At the time of said compromise, a sum of Rs. 10,00,000/- was given to the informant and the remaining amount is payable at the time of order of divorce. He has drawn attention of the Court to the 'no objection' recorded by the informant to the bail application of her mother-in-law i.e. mother of the applicant herein. Thus, according to him, there is no substance in the allegations made by the informant. He makes a statement on instruction that the applicant is ready to handover his mobile phone to the Investigating Officer.

4. Learned APP as well as learned counsel for the informant opposed the application mainly on the ground that there are threats given by the applicant about mis-using mobile phone and pen drive containing her obscene photographs and videos. Thus, it is their contention that for recovery of these articles, custodial interrogation of the applicant is necessary.

5. No doubt, allegations made in the First Information Report on the face of it appear to be serious, however, at this stage, the Court is required to consider as to whether there is any supporting material on record to corroborate the said allegation. Except the fact that some photographs were sent by the applicant himself to the informant, there is nothing on record to indicate that any pen drive of obscene photographs and videos of the informant was prepared. It is pertinent to note that the allegation was made by the informant against her inlaws that they threatened her of publishing all the photographs and videos contained in the pen drive. If it is so, then it does not stand to any reason why the informant had given 'no objection' to the bail application of the mother of the applicant. This fact shows that there is possibility of exaggeration of allegations made in the First Information Report.

6. Learned counsel for the applicant states that applicant is ready to handover his mobile phone to the Investigating Officer on 15th June, 2023. This statement made by learned counsel for the applicant would suffice the purpose of effective investigation.

7. Pertinently, though there are specific allegations against the applicant regarding repeated unnatural sexual intercourse with the informant, but for the reason best known to the Investigating Officer, the informant is not even sent for medical examination. This aspect as well as compromise arrived at between the parties coupled with the fact that the informant has given 'no objection' to the bail application of her mother-in-law, shows that there is possibility that the allegations are made in the First Information Report to make it more serious. Prima facie no material is there on record to show commission of offence under Section 377 of the Indian Penal Code.

8. Learned counsel for the informant has serious apprehension that informant is a young lady and if the obscene photographs and videos are made viral by the applicant, grave prejudice will cause to her. Having regard to the said apprehension,

applicant not to publish any pictures/videos of informant (including obscene, if any) on social media or in any manner whatsoever. This direction will take care of the fear of the informant.

9. In view of above, application is allowed. Hence the following order :-

ORDER

(i) Application is allowed.

(ii) In the event of arrest of applicant in connection with Crime No. 45/2023 registered with Nilanga Police Station, Tq. Nilanga, Dist. Latur, for the offences punishable under Sections 498A, 377, 327, 323, 504, 506 read with Section 34 of the Indian Penal Code and Sections 66(E), 67 and 67(A) of Information Technology Act, he be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount.

(iii) He is directed to remain present before the Investigating Officer on 15th June, 2023 and handover his mobile phone.

(iv) He shall attend the concerned police station once in a week.

(v) He shall not contact the witnesses directly or indirectly.

(vi) He shall not interfere with the evidence in any manner whatsoever.

(vii) He is further directed to cooperate the investigating agency for further investigation.

(viii) He shall not publish pictures/videos of informant (including obscene, if any) on social media or in any manner whatsoever.

(R. M. JOSHI)
Judge

dyb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2000 OF 2023 IN
ANTICIPATORY BAIL APPLICATION NO. 556 OF 2023

Mayuri Ajjit Biradar

Applicant

Versus

Ajit Bharat Biradar & another

Respondents

Mr. V. T. Patil, Advocate for the applicant.
Mrs. G. L. Deshpande, APP for the State.
Mr. P. P. Giri, Advocate for respondent No. 1.

CORAM : R. M. JOSHI, J.
DATE : 9th JUNE, 2023.

PER COURT :

Application is allowed.

(R. M. JOSHI)
Judge

dyb