



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 625 OF 2023

Nikhil Rajendra More

...Applicant

VERSUS

The State of Maharashtra And Another

...Respondents

...

Mr. R. S. Deshmukh, Senior Counsel a/w Ms. Y. A. Namde, Advocate i/by Mr. D. R. Deshmukh, Advocate for the Applicant.

Mr. S. B. Jadhav, APP, for the Respondents – State.

Mr. U. B. Deshmukh, Advocate for the informant to assist APP.

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CORAM : R.M. JOSHI, J

DATE : NOVEMBER 29, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 277 of 2023 registered with MIDC Latur Police Station, Dist. Latur for the offences punishable under Sections 377, 354, 354-B, 498-A, 323, 504, 506 and 34 of the Indian Penal Code.

2. Informant is the wife of the Applicant. According to her, her marriage was performed with the Applicant on 29.11.2022 and from the next day she started cohabitation at her matrimonial home. Informant has made allegations against the husband, parents and

other relatives by stating that gold ornaments which were given to her in the marriage were taken away by the accused persons. It is also claimed that she was been harassed for not bringing three tola gold at the time of marriage. It is also claimed that on 24.01.2023 and 25.01.2023 Applicant had established forcible physical relationship with her. It is also alleged that he had performed unnatural sex with her. Informant has further claimed that her father-in-law had outraged her modesty. It is also alleged that on 21.03.2023 her husband and parents-in-law left her to her parental home. On these allegations, Applicant and co-accused apprehend arrest. There is no dispute about the fact that the co-accused are already enlarged on pre-arrest bail.

3. Learned Senior Counsel for the Applicant submits that this is a case wherein number of relatives of husband are roped in this crime. It is argued that on 27.03.2023 present informant had lodged complaint with the Women Redressal Cell wherein no allegations were made in respect of subjecting her with unnatural sex by the Applicant or removal of the gold ornaments

from her person by the accused. It is also pointed out that Applicant was threatened to be falsely involved in the case of rape or offence regarding unnatural sex. It is submitted that on 13.03.2023 the said complaint was lodged by the Applicant with the concerned police station and immediately thereafter present report came to be lodged at 12.00 am.

4. Learned Counsel for the informant though has not disowned the complaint dated 27.03.2023, however, he claim that being a lady informant did not find it appropriate to mention about the unnatural sex being committed with her. He further points out complaint dated 03.04.2023 to claim that even before lodging of the FIR such allegations were made against the Applicant and co-accused. It is submitted that the allegations against the Applicant about the unnatural sexual intercourse being done by him with the informant is serious in nature and as such, it is not a fit case for grant of anticipatory bail.

5. Learned APP also opposed the application by relying upon the medical examination papers wherein according to him in column no. 15(f) the details

regarding sexual violence are mentioned.

6. As rightly pointed out, it is often seen by the Court that since the offence under Section 376 of the Indian Penal Code is not attracted against husband, the allegation of offence under Section 377 of IPC are leveled by the estranged wife. In this case, the informant has lodged complaint with Women Grievance Redressal Cell on 27.03.2023 wherein there is absolutely no whisper of any allegation against the husband of either forcible sexual intercourse or unnatural sex having being committed with her. Similarly, there is no allegation against in-laws of removal of any ornaments which finds place in subsequent complaint. This Court is unable to accept the submissions made on behalf of informant that later on in the complaint dated 03.04.2023 these allegations are made by the wife against husband and in-laws, as there is no plausible explanation therefor. It does not stand to any reason as to why if such incident had really occurred what prevented informant for referring to same in this complaint which was lodged by herself to the concerned Women Grievance Redressal Cell or now

circumstances changed to incorporate these contentions in subsequent complaint. Only inference which can be drawn from these facts is that allegations made in later point of time could be an afterthought.

7. In the backdrop of the complaint made by the husband on 13.04.2023 in respect of the alleged threats issued to him by informant and her relatives, the absence of the said allegations in the first report assumes importance. Though it is sought to be argued by the prosecution that there is mention about the sexual violence committed to the informant, however, perusal of the opinion of the medical officer does not show that any annul sex was found to have been committed with the informant. This Court, therefore, finds every reason to accept the contention of the Counsel for the Applicant that this could be a case of false implication owing to the disputes between husband and wife. Hence, this is a fit case for grant of anticipatory bail.

8. In view of above, application is allowed by confirming interim order dated 28th April, 2023.

(R. M. JOSHI, J.)