

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

947 ANTICIPATORY BAIL APPLICATION NO. 726 OF 2023

DATTA KACHRU CHAUDHARI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Datta Sundarrao Kale

APP for Respondents: Mrs. Geeta L. Deshpande

Advocate for Respondent No. 2 : Ravi R. Khandebharad

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CORAM : R. M. JOSHI, J.

DATE : 27th JUNE, 2023

PER COURT :

1. The applicant is apprehending arrest in connection with Crime No. 140/2023 registered with Chikalthana Police Station, Dist. Aurangabad (Rural), for the offence punishable under Sections 376(2)(n), 313, 506 of the Indian Penal Code.

2. Informant / victim stated that she was married in the year 2012 and out of the said wedlock she has one son. However, since she has no good terms with her father, she is staying at her parental home. Applicant is neighbour of the informant. It is alleged that prior to one year of lodging of the report, applicant established

forcible physical relationship with her and continued to do so thereafter. It is alleged that in November-2022, she became pregnant. Applicant asked her to consume the pills for abortion. On 14.12.2022, he took her to Sai Shraddha Hospital at Karmad, where the curating was performed. There is allegation that he used to threaten her to kill her and her son. As she was fed up with the said harassment, she lodged FIR.

3. Learned counsel for the applicant submits that there is a delay in lodging the FIR. According to him, the informant is major and married woman. He further states that it is not possible that the informant would remain quiet for a period of one year though there is forcible physical relationship. According to him, it is a case of consensual physical relationship between two adults.

4. Learned APP and advocate for the informant opposed the application by submitting that due weightage needs to be given to the statement of victim. Learned APP submitted that the medical examination indicates that the possibility of forcible physical relationship cannot be ruled out. Counsel for the informant submitted

that the applicant has recorded some obscene videos of informant and under threats, established physical relationship with the informant. When the advocate for the applicant was put a question as to why such story does not appear in the FIR, he argued that the FIR is not recorded as per the say of the informant. There is, however, nothing on record to indicate that any objection was raised by the informant about non-recording of report correctly. He also argued that in November-2022, forcible termination of pregnancy was done by the applicant and that when the applicant took informant to the hospital for curating, he introduced himself as husband of the informant.

5. Informant is aged about 25 years. She is married and has a son out of the said wedlock. Though it is stated that prior to one year of the lodging of the report, the applicant established physical relationship with her, there is no reason or justification as to why such long period is taken by her to lodge report to the police about the said incident. There is no whisper in the FIR about the applicant establishing the said relationship with threat to publish videos. With regard to the allegations about the termination of pregnancy, the investigation papers do not show that the investigation was carried

out in this regard, however, the learned counsel for the informant has placed before this court the medical papers of Sai Shraddha Hospital. Bare perusal of the said papers do not show that any history was given by the informant about she being forcibly made to consume pills for causing abortion. On the contrary, said papers indicate that she on her own went to the hospital for termination of pregnancy.

6. Having regard to the aforesaid facts, there is substance in the contention of the learned counsel for the applicant that this could be a case of consensual physical relationship within applicant and informant, who are adults. Hence, liberty of the applicant deserves to be protected. The application is allowed in terms of interim order passed by this court on 09th May, 2023.

7. Applicant shall mark his attendance till filing of the charge-sheet.

[R. M. JOSHI]
JUDGE