

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.1130 OF 2023
WITH APPLN/2600/2023 IN ABA/1130/2023**

**MUKHTAR KHAN @ BABBU S/O MAJID KHAN
VERSUS**

THE STATE OF MAHARASHTRA

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**Advocate for Applicant : Mr. A. M. Karad
APP for Respondents: Mr. V. S. Badakh
Advocate for informant : Ms. Varsha Ghanekar**

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CORAM : R.M. JOSHI, J

DATE : JULY 24, 2023

PER COURT :

1. Applicant apprehends arrest in connection with C.R. No. 148/2023 registered with City Chowk Police Station, Dist. Aurangabad for the offences punishable under Sections 376, 377, 354(D), 509, 506 of the Indian Penal Code.

2. Victim aged 33 years lodged report to the police on 07.05.2023 by stating that Applicant was staying in front of her house. It is contended that on 12.03.2023 she was followed by Applicant and had called by him to meet. It is stated that he threatened her that he will kidnap her children if she does not concede to his request. Informant states that on

12.03.2023 at around 07.00 pm she went to the house of the Applicant. At that time, he offered her water. Though she was not prepared to consume it, he forced her to drink. According to her, it was bitter in taste and after drinking water she lost her consciousness. After about 20 to 25 minutes when she regained consciousness she found that Applicant was watching video clip of physical relationship between them. She was threatened by him to make the said clip viral. Thereafter on 23.04.2023 Applicant again came and asked her to visit his house. She, therefore, informed about it to her husband. At that time there was quarrel between them.

3. Learned Counsel for the Applicant states that the report in respect of incident dated 12.03.2023 is lodged on 07.05.2023 and there is no explanation about the delay caused in lodging the said report. It is submitted that on 12.03.2023 the Applicant was present in the office near town hall wherein the function of distribution of learning licence was going on. According to him, in the said program police officers were also present. It is the case of false implication

and hence, liberty of the application be protected.

4. Learned APP opposed the application by contending that from the statement of witnesses the presence of the Applicant at the said function was seen from 07.30 pm. He, therefore, submits that there is no reason to discard the allegations made by the informant about occurrence of incident.

5. Learned Counsel for the victim also opposed the application by contending that having regard to the nature of allegations against present Applicant, immediate lodging of the report was not possible.

6. No doubt, there is delay in lodging of the FIR, however, that itself cannot become fatal in each case. It is always found that the women is hesitant in reporting such incident to the police immediately. However, at the same time there has to be *prima facie* substance in the contentions made by the informant against accused. Herein this case FIR shows that informant on her own went to the house of Applicant. She specifically states that she went there at around 07.00 pm and the incident in question lasted for the

period of about 1/2 hour thereafter. If this is to be accepted then it is practically impossible that the Applicant was present at the function at around 07.30 pm. There is no dispute about the fact that the Applicant is the organizer of the said function which can be seen from the messages circulated by him well in advance. These facts creates doubt about the allegations made by the informant in respect of incident dated 12.03.2023.

7. In the light of the delay caused in lodging of the FIR there is reason to accept contention of the counsel for the Applicant that this could be a case of false implication. For the purpose of investigation, the application is directed to attend concerned police station once in a week till filing of the charge-sheet.

8. Hence, the order:

O R D E R

- (i) In the event of arrest of the Applicant in connection with with C.R. No. 148/2023 registered with City Chowk Police Station, Dist. Aurangabad for the offences punishable under Sections 376, 377, 354(D), 509, 506 of the Indian Penal Code, he shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) with one

solvent surety in the like amount.

- (ii) He shall attend the concerned police station once in a week till filing of the charge-sheet.
- (iii) He shall not contact the informant, witnesses or family members of informant directly or indirectly.
- (iv) He shall not interfere with the evidence in any manner whatsoever.
- (v) He is further directed to cooperate the investigating agency for further investigation.
- (vi) Criminal Application No. 2600 of 2023 is disposed of.

(R.M. JOSHI, J.)

Malani