

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

ANTICIPATORY BAIL APPLICATION NO.1154 OF 2023

Sharad Sambhaji Danave

...Applicant

Versus

The State Of Maharashtra

...Respondent

Mr. V.R. Gundecha, Advocate for the applicant.

Mrs. G.L. Deshpande, APP for respondent-State.

CORAM : R.M. JOSHI, J

DATE : OCTOBER 31, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 545 of 2023 registered with Kotwali Police Station Dist. Ahmednagar, for the offences punishable under Sections 376, 417, 223, 504, 506 of the Indian Penal Code.

2. Informant is a married lady and she had admitted in the FIR about she having acquaintance with the applicant and the acquaintance resulted into intimate relationship between them. Informant claims that she was called in lodge by the applicant wherein applicant established forcible physical relations with her. It is further states that the applicant had taken photographs of said incident and balckmailed her to submit her to physical relations with the applicant. On 27.05.2023, when she along with her husband went to the applicant to advise him not to cause harassment to her, applicant assaulted them, hence, the report came to be lodged.

3. Learned counsel for the applicant submits that from the FIR it is clear that the it is the case of consensual relationship and that later on since said relationship is not continued, the possibility of false implication is not ruled out. It is his submission that during the period when he was protected by the interim order, he was called by the investigating officer and his medical examination is already done. It is stated that under the panchnama his mobile phone is also seized and hence, his further custodial detention is not necessary.

4. Learned APP opposed the application by referring to the statement of informant/victim. It is her contention that there are injury certificates to indicate that on 27.05.2023, incident did occur wherein informant and her husband were assaulted by the applicant. Thus, her submission is that applicant does not deserve the protection.

5. Perusal of report shows that informant was in love relation with the applicant. Though, she claims that the physical relations were by force, however, evidence collected during the investigation indicates that on number of occasions entries are found of their visit to lodge. This prima facie suggest that it could be the case of consensual relationship and possibility of false implication cannot be ruled out. From the investigation papers no allegation can be said to be attracted under section 223 of IPC. Statement of the learned counsel for the applicant is accepted that medical examination of the applicant is over,

so also his mobile phone is already seized by the investigating agency under panchnama.

6. Having regard to these facts, further custodial detention of the applicant is not necessary. The application is therefore allowed in terms of order dated 20.07.2023.

[R.M. JOSHI, J.]