

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

**ANTICIPATORY BAIL APPLICATION NO.1264 OF 2023
WITH APPLN/3427/2023 IN ABA/1264/2023**

**VIJAY DATTATRAYA LONDHE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. S. J. Salunke, Advocate for then applicant
Mr. V. S. Badakh, APP for the respondent/State
Mr. A. D. Gade, Advocate for the informant

CORAM : R. M. JOSHI, J.

DATE : 11th SEPTEMBER, 2023

P.C. :-

1. Applicant apprehends arrest in Crime No. 273/2023 registered with Parola Police Station, Tal. Parola, Dist. Jalgaon for the offences punishable under Sections 354, 354-A, 354-C, 354-D, 506 of IPC.
2. Informant is Gramsevika and applicant is Block Development Officer (BDO). It is alleged in the first information report that informant was having charge of village Bholane. She states that false complaints were made by the Sarpanch of the said village and in connection with the same it was assured by the applicant that no action would be taken against her but for that purpose she will have to give gift to him. It is claimed that the said message is obscene in nature. She has further alleged about certain other messages were exchanged between them

wherein compliments were given by the applicant to the informant. As per the first information report on 12/06/2023 the applicant caught hold of her hand in the office and demanded sexual favours from her. It is further stated that 23/06/2023 when she was present in the office she was informed by the clerk about she being issued with to issue show cause notice. It is alleged that on that day the applicant made obscene gestures against her. She further states that due to the said acts of the applicant, she consumed sleeping pills and was admitted in the hospital and hence delay is caused in lodging of the FIR.

3. Learned counsel for the applicant states that the applicant is superior officer who had initiated action against the informant and only for this reason the first information report has been lodged by making false allegation against him. It is submitted that there is delay in lodging of the FIR. He drew attention of the Court to the recommendation made by him to take action against the applicant on the basis of a complaint from the Sarpanch of village Bholane. He also drew attention of the Court to the show cause notice issued by the applicant to the informant dated 23/06/2023. It is contended that till the lodging of the report no allegation was error made by the informant against the applicant for outraging her modesty.

4. Learned APP and learned counsel for the informant opposed the said contention. Learned counsel for the informant submits that there are specific allegations against the applicant in the first information report and the delay is explained i.e. hospitalization of the informant after 23/06/2023. He relied upon the messages exchanged between the applicant and informant. Thus, according to him there is evidence in form of obscene messages and sexual advances made by him towards her.

5. There is no dispute about the fact that the applicant is BDO and informant is working as Gramsevika. Till the issuance of show cause notice on 23/06/2023 no dispute of whatsoever nature seems to have been made by her against applicant. Even if it is accepted that the messages were exchanged between them, there is no plausible explanation as to why the same were not objected by the informant for the period of about 2 years. This shows that informant was okay with such communication. When only after issuance of show cause notice and action be taken by the applicant on 23/06/2023 such allegation is sought to be made by lodging first information report, the same cannot be accepted without satisfactory explanation. Even in this regard pertinently the incident in question as recorded in the first information report pertains to 12/06/2023 whereas the report had been lodged on 08/07/2023. Thus, there is unexplained delay in the lodging of the

report. Though it is contention of the informant that she was hospitalized, but even medical reports do not show any history now alleged to be given to Medical officer for consumption of the sleeping pills. The possibility of she consuming sleeping pills on account of receipt of the show cause notice also cannot be ruled out.

6. Once there is apparent falsehood in the complaint, appropriate protection of liberty needs to be granted. Otherwise, it will be difficult for any officer to take the action against the subordinate employee. Having regard to the facts and circumstances of the case, this Court has reason to accept the contention of the learned counsel for the applicant that the allegations made in the first information report could have been made by way of retaliation to the action taken by the applicant against the informant. In any case, there is no question of any custodial interrogation of the applicant. He is not likely to flee. Hence, application is allowed in terms of interim order dated 1st August, 2023. Pending application, if any, stands disposed of.

(R. M. JOSHI, J.)

ssp