

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1276 OF 2023

Satish Tekchand Koli ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. S. S. Gosawi, Advocate for the Applicant.

Mr. S. P. Sonpawale, APP for Respondent – State.

CORAM : R.M. JOSHI, J.

DATE : SEPTEMBER 20, 2023

ORDER

1. Applicant apprehends arrest in connection with Crime No. 182 of 2023 registered with Shindkheda Police Station, Dist. Dhule for the offences punishable under Sections 376, 376-D, 341, 506 read with Section 34 of the Indian Penal Code.

2. On 06.07.2023 FIR was given by victim who has narrated the incident occurred on 05.07.2023. According to her, she was told by Raju, caterer known to her, for coming to Savai Mukti for catering work. She met him at Savai Mukti. One unknown person was also there with him. On motorcycle of Raju they came to Savai Mukti. At about 10.00 pm they started returning towards Shahada

and stopped at one Tea Stall. Thereafter, two unknown persons obstructed them and assaulted Raju and unknown person accompanying her. One of the unknown persons called Sarpanch Prabhakar Patil and at that time she informed him about she coming along with those two persons on her own for work. The said Sarpanch identified her and told the unknown person to board her in the bus. It is also stated in the report that out of those two unknown person who obstructed informant and others recorded video compelling her to say that she is eloping with the unknown Rajasthani person. It is alleged that thereafter the said two persons compelled persons accompanying her to left the spot. Thereafter, they took her near big rock and at that time she was raped by them. Thereafter, they took her to Dhaba wherein a worker working has asked as to why she is crying, due to said persons she could not tell anything. Thereafter at around 11.30 pm luxury bus came and by paying Rs. 50 she was told to be taken in the said bus. After he husband came from Surat, she gave report to the police.

3. Learned Counsel for the Applicant submits that

the present Applicant is alleged to be one of the unknown person who had obstructed informant and two others and committed rape on her. It is submitted that the contention of the informant is not supported by medical evidence as there are absolutely no injuries of whatsoever nature caused to her. It is argued that after the incident has occurred as alleged, there ought to have been some external injury caused to the informant. It is submitted that if the Applicant had any intention to ravish informant, he would not have called Sarpanch of the village from where she hails. It is submitted that the possibility of false implication of the Applicant cannot be ruled out as because of whom informant had to go back to her house.

4. Learned APP opposed the application by submitting that he statement of the informant cannot be discarded as her sole statement is sufficient to prove charge of rape against Applicant. It is also submitted that her statement about she visiting Dhaba as well as Tea Stall are supported by statement of witnesses. Thus, according to him, it is not case of grant of anticipatory bail.

5. There cannot be any dispute about the fact that in appropriate cases accused can be convicted for the offence of rape even on the basis of solitary statement of the victim. In the instant case, however, *prima facie* there is no evidence to show that any external injuries were caused to the informant. This observation is inevitable at this stage considering the allegation made against the accused they ravished her at the place wherein there would be some external injuries if she was subjected to forcible sexual relationship. Perusal of medical papers do not show causing of any such external injury to her. Apart from this, there is some substance found in the contention of learned Counsel for the Applicant that if Applicant had any intention to take disadvantage of the informant, he would not have called Sarpanch of the village which would disclose his identity.

6. Having regard to these facts, arguments of Counsel for the Applicant about the possibility of false implication cannot be ruled out. Hence, liberty of the Applicant deserves to be protected. Hence, the order:

O R D E R

- (i) In the event of arrest of the Applicant in connection with Crime No. 182 of 2023 registered with Shindkheda Police Station, Dist. Dhule for the offences punishable under Sections 376, 376-D, 341, 506 read with Section 34 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 surety in the like amount.
- (ii) He shall attend the concerned police station as and when required.
- (iii) He shall not contact the witnesses 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.

(R.M. JOSHI, J.)

Malani