

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1584 OF 2023

SURESH ASARAM KACHRE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. R. H. Wagh
APP for Respondents: Mrs. G. L. Deshpande

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CORAM : R.M. JOSHI, J

DATE : OCTOBER 16, 2023

PER COURT :

1. Heard. Issue notice to the Respondent, returnable forthwith. Learned APP waives service of notice on behalf of Respondent – State. By consent of both sides, matter is heard finally.

2. Applicant apprehends arrest in connection with with C.R. No. 191 registered with Majalgaon Rural Police Station, Dist. Beed for the offences punishable under Section 316, 452, 323, 504, 506, 143, 147 and 149 of the Indian Penal Code.

3. On 26.06.2023 informant reported incident to the police by stating that she was carrying 1½ month pregnancy. On 11.06.2023 an incident occurred in which present Applicant and co-accused assaulted her. There

is allegation against present Applicant that he gave kick blow on her abdomen and due to said assault, miscarriage occurred.

4. Learned Counsel for the Applicant submits that all co-accused are enlarged on bail. It is his further submissions that brother of the Applicant had lodged report on 12.06.2023 vide FIR No. 158/2023 in respect of incident dated 10.06.2023 and that present report is lodged by way of counterblast.

5. Learned APP opposed the application by referring to the statements of witnesses which indicate that the present Applicant had kicked abdomen of the informant. She also drew attention of the Court to the medical papers which supports the allegations of miscarriage. Thus, according to her, having regard to the seriousness of offence, Applicant is not entitled for anticipatory bail.

6. There is no dispute about the fact that prior to lodging of the FIR by the informant herein the report came to be lodged against informant and others by brother of Applicant on 12.06.2023 in respect of

incident of 10.06.2023. Though according to informant the incident has occurred on 11.06.2023 the report came to be lodged on 23.06.2023. Thus, there is delay in lodging of the report. Every delay cannot be sole ground for rejecting contention of the informant, however, having regard to the fact that the medical officer is unable to express any definite opinion about the cause of miscarriage, it would be difficult at this stage to assume that Applicant with an intention to cause miscarriage of the informant gave kick blow on her stomach. Also having regard to the fact that the informant was carrying 1½ month pregnancy, it is difficult for the other person to know that she is carrying pregnancy.

7. Thus, *prima facie* no mens rea can be attracted for the Applicant to cause miscarriage. Barring this, offence remains against him is punishable under Section 323 of IPC. Nothing is to be recovered at his instance. Having regard to the previous disputes between the parties, the possibility of false implication cannot be ruled out. There are no criminal antecedents against Applicant and he is not likely to flee from justice.

8. In view of above, application stands allowed.

Hence, the order:

O R D E R

- (i) In the event of arrest the of Applicant in connection with with C.R. No. 191 registered with Majalgaon Rural Police Station, Dist. Beed for the offences punishable under Section 316, 452, 323, 504, 506, 143, 147 and 149 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