

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1720 OF 2022

Prakash Pundlik Patil

...Applicant

Versus

The State Of Maharashtra And Another

...Respondents

Mr. J.V. Patil, Advocate for the applicant.

Mr. V.S. Badakh, APP for respondents.

Mr. A.J. Patil, Advocate for informant.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 5th JANUARY, 2023

ORDER :

1. The applicant who is retired police officer apprehends arrest in Crime No. 820/2022, registered with MIDC Police Station, Jalgaon, for offence punishable under sections 376, 323, 506 of the Indian Penal Code.

2. On 19.11.2022 informant/prosecutrix lodged FIR at 14.29 hours alleging that she was maternal cousin of second wife of applicant, who is in disposed and she was working at applicant's house as maid servant.

3. On 13.11.2022 while she was cleaning the floor of

applicant's house, applicant groped her and took her to bed and ravished her. He threatened her that if the incident is disclosed to anybody he will kill her and her son.

4. Heard the learned advocate for the applicant, learned Additional Public Prosecutor for respondents and learned advocate for informant. Perused the investigation papers.

5. It is the case of the applicant that there was dispute of salary between applicant and informant for which she lodged Non Cognizable report against the applicant on 13.11.2022 at 7.00 pm alleging that when she demanded her three months unpaid salary, applicant abused and slapped her and threatened to kill her. Accordingly, Non Cognizable report No. 2146/2022 is registered for the offence under sections 323, 504, 506 of the Indian Penal Code.

According to the applicant after Non Cognizable offence was registered, he was called in the police station and on the next day he paid three months salary Rs. 21,000/- to the informant and the dispute was settled.

6. In the FIR informant claims that the incident has taken place on 13.11.2022 at about 5.00 pm and due to threats given by the applicant, she belatedly lodged FIR on 19.11.2022.

7. Record indicates that Non Cognizable report was lodged by informant on 13.11.2022 at 7.00 pm. Thus, prima facie, explanation of belated lodging of FIR given by the applicant does not appear to be plausible. On the day of incident when the informant went to lodge Non Cognizable report at 7.00 pm, she could have very well informed the police that the applicant has committed offence under section 376 of IPC.

8. Medical report is not in favour of prosecution. Learned Additional Public Prosecutor while opposing the application submits that custody of the applicant is necessary for conducting his medical examination. Suitable condition can be imposed on the applicant to secure his presence for medical examination. In the peculiar facts of the present case, pre-trial custodial detention of the applicant is not necessary, as nothing is to be recovered from the applicant.

9. In the result, application is allowed.

10. In the event of arrest of applicant in connection with Crime No. 820/2022, registered with MIDC Police Station, Jalgaon, for offence punishable under sections 376, 323, 506 of the Indian Penal Code, the applicant shall be released on executing P.B. and S.B. of Rs. 15,000/- with one surety in the like amount. The applicant shall attend the concerned police station from 9th January to 13th January, 2023, everyday, between 10.00 am to 12.00 noon and shall co-operate in the investigation. The applicant shall not tamper the prosecution evidence.

11. Thereafter, till filing of charge sheet, the applicant shall attend the concerned police station as and when called by the investigating officer and shall co-operate in the investigation. The applicant shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]