

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1128 OF 2023

Vijay Naganath Jadkar ...Applicant
vs.
The State of Maharashtra and Anr. ...Respondents

Mr. Suhas Deokar i/b. Mr. Amit Hire, for the Applicant
Mr. Vinod Sangvikar, for Respondent No. 2.
Smt. A.A. Takalkar, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 5, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 120 of 2023 registered at Tembhurni police station for the offences punishable under sections 354, 452, 504 and 506 of Indian penal Code, 1860 and section 8 of the Protection of Children From Sexual Offences Act, 2012.

3. The first informant/victim alleged that on 25th February, 2023 while she was alone at home, the applicant entered into her house, caught hold of her hand and attempted to outrage her modesty. When the first informant threatened to report the matter to police,

the applicant assaulted her by means of fist and kick blows and threatened to kill the first informant and her mother. After a while, the mother and sister in law of the applicant came to her house and raked up quarrel on the pretext that the goats of the first informant had strayed into their field and abused and assaulted the first informant. When she called her brother, the latter was also abused and assaulted.

4. On 6th June, 2023, when the application was listed before the Court, after noting the submission on behalf of the applicant that there were property disputes between the applicant and the family of the first informant, this Court had granted interim bail.

5. I have heard the learned counsel for the applicant, learned APP and the learned counsel for respondent No. 2/victim.

6. The learned counsel for the applicant invited the attention of the Court to the copies of the documents which indicate that there is a dispute between Shashikant Jadkar for whom the applicant works and the first informant's family, over the alleged encroachment of 11 Gunthas land in Gut No. 180. The learned counsel further submitted that in respect of the very same

occurrence, the mother of the applicant had lodged report against the first informant and her brother Akash on 25th February, 2023 itself for the offences punishable under sections 504 and 506 read with 34 of the Penal Code. Police had recorded NC viz CR No. 217 of 2023. The applicant has thus been falsely implicated for having committed the offences punishable under section 354 of Indian penal Code, 1860 and section 8 of the Protection of Children From Sexual Offences Act, 2012.

7. The learned APP invited attention of the Court to the statement of the first informant recorded under section 164 of the Code of Criminal Procedure, 1973 before the learned Magistrate and the injury certificate of the first informant.

8. I have perused the injury certificate. In the circumstances of the case, prima facie, injury certificate does not seem to be of much assistance to the prosecution. It is true, in the statement recorded under section 164 of the Code, the first informant had reiterated the allegations. However, in the totality of the circumstances, it appears that the relations between the applicant and the first informant party were strained over a property dispute.

9. An endeavour was made on behalf of the first informant to draw home the point that the dispute is between the first informant and Shashikant Jadkar and not the applicant. The learned counsel for the first informant also submitted that the investigating officer did not record the statement of the first informant instantaneously nor the video recording of the alleged occurrence was collected despite being offered. It was further submitted that after the grant of interim bail, the applicant has committed criminal intimidation and the matter has been reported to there police.

10. I have carefully considered the material on record. It appears that in respect of the alleged occurrence dated 25th February, 2023 the first information report came to be registered on 1st March, 2023. In the meanwhile, NC complaint was lodged by the mother of the applicant on 25th February, 2023 itself. Prima facie, the fact that the instant first information report also refers to the alleged incident involving mother and sister in law of the applicant, indicates that there is a counter version which competes in probability. The allegations in the first information report, are therefore, required to be appreciated in the light of the alleged animosity between the parties, as is evident from the record.

11. In the backdrop of the nature of the accusation, to facilitate further investigation, custodial interrogation of the applicant does not seem to be warranted. Possibility of fleeing away from justice appears to be remote. As regards the apprehension on the part of the prosecution of tampering with evidence and threatening the witnesses, it is pertinent to note that when the grievance about the alleged criminal intimidation, post the release of the applicant on interim bail was made, this Court by an order dated 13th June, 2023 imposed a further condition that the applicant shall not enter the area within the jurisdiction of Tembhurni police station, unless specifically called by the investigating officer for the purpose of investigation. As a further grievance is made that subsequently also the applicant has threatened the relatives of the first informant, in my view, the said condition deserves to be maintained till the conclusion of the trial.

12. For the foregoing reasons, I am inclined to make the order of interim bail absolute.

13. The order of interim bail dated 6th June, 2023 is made absolute on the terms and conditions incorporated therein.

14. In addition, the applicant shall not enter the area falling within the jurisdiction of Tembhurni police station till conclusion of the trial, save and except for the purpose of appearing before the investigating officer as and when called and attending the proceeding before the jurisdictional Court.

15. The applicant shall not contact the first informant and any of her relatives for any purpose whatsoever.

16. The applicant shall regularly attend the proceedings before the jurisdictional Court.

17. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)