

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 20 OF 2023

Vijaykumar Shankarrao Digge ..Applicant

v/s.

The State of Maharashtra . ..Respondent

ANTICIPATORY BAIL APPLICATION NO. 24 OF 2023

Vijayalaxmi Vijaykumar Digge ..Applicant

v/s.

The State of Maharashtra . ..Respondent

Mr. Amit A. Karande for the Applicant in both applications.

Mr. S.V.Gavand, APP for the State.

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 3rd APRIL, 2023.**

P.C.

1. The Applicants seek pre-arrest bail, apprehending their arrest in C.R.No.499 of 2022 registered at Vijapur Naka Police Station, Solapur for offences under Section 307, 354, 358, 376, 388 r/w. 34 of the Indian Penal Code.

2. Heard learned Counsel for the Applicants, and learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The records prima facie reveal that the first informant had lodged

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FIR dated 28.07.2022 before the Senior Inspector of Police, Vijapur Naka Police Station, alleging that the Applicants herein had criminally trespassed into her flat and taken forcible possession. An inquiry was conducted and it was revealed that the dispute was of civil nature. Since the police had declined to register the crime, the first informant filed an application before the Magistrate under Section 156(3) of Cr.P.C., whereby she not only alleged offence of cheating, but also claimed that she was raped by the Applicant, in ABA/20/2023 since the year 2002 to 2019. Pursuant to the order of the Magistrate, MECR came to be registered. The statement of the first informant has been recorded.

4. The FIR prima facie reveals that the Applicant in Application No. 20 of 2023 was known to the Complainant. She claims that said Applicant had sexual relation with her from 2002 to 2019. No complaint was lodged against the Applicant for subjecting her to rape for over a period of 20 years. No such allegations were made even in the previous FIR lodged before the police. The allegations of rape prima facie cannot be believed. It is pertinent to note that the Applicant and the first informant have entered into partnership business which was wound up sometime in the year 2011. Thereafter the Applicant and the first informant entered into a Development Agreement on 13.9.2012. It was agreed that the Applicant as well as the first informant would be entitled for a flat, and in addition the first informant was liable to pay to the Applicant an amount of Rs.35,00,000/-. The records prima facie reveal

that the first informant has handed over the flat to the Applicant under possession receipt dated 11.08.2019. This receipt also prima facie negates the contention of criminal trespass.

5. Considering the aforesaid facts and circumstances, no case is made out for custodial interrogation. Hence, interim relief granted on 7th January, 2023 stands confirmed.

(i) In the event of arrest of the Applicants- Vijaykumar Shankarrao Digge and Vijayalaxmi Vikaykumar Digge, in Crime No.499 of 2022 registered at Vijapur Naka Police Station, Solapur, the Applicants be released on bail on furnishing P.R. bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) each with one or more sureties in the like amount;

(ii) The Applicants shall appear before the trial Court as and when summoned.

(iii) The Applicants shall keep the Investigating Officer informed of their current address and mobile/contact details, and/or change of residence or mobile/contact details from time to time.

(iv) The Applicants shall not interfere with the Complainant and the other witnesses, or tamper with the evidence in any manner.

. Both Applications stand disposed of.

(ANUJA PRABHUDESSAI, J.)

