

AGK

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

**ANTICIPATORY BAIL APPLICATION NO.364 OF 2023**

|                                 |                 |
|---------------------------------|-----------------|
| Suraj Raghunath Sonavane        | ... Applicant   |
| <b>V/s.</b>                     |                 |
| The State of Maharashtra & Anr. | ... Respondents |

Mr. Akshay R. Kapadia for the applicant.

Mrs. A.S. Pai, Public Prosecutor with Mr. Pandurang H. Gaikwad, APP for the respondent no.1/State.

Ms. Priyanka Chavan for respondent no.2.

Mr. S.K. Kute, PSI, Ranjangaon Police Station, Pune Rural, is present.

**CORAM : AMIT BORKAR, J.**

**DATED : JUNE 20, 2023**

**P.C.:**

**1.** This Court by order dated 13 June 2023 directed the Superintendent of Police to file an affidavit explaining measures to be taken for avoiding absence of investigating officer to remain present when the bail matters are listed before the Court.

**2.** In furtherance of the said order, the Superintendent of Police has filed an affidavit. The same is taken on record. Paragraphs 5, 6 and 7 of the said affidavit reads thus:

“5. I further humbly state that I shall appoint a police officer of the rank of Police Inspector, Local Crime Branch

Pune Rural from SP headquarters office as a nodal coordinating officer for monitoring the compliance of the orders and mandates of the Hon'ble Court. The prime objective of appointing the said officer is to strictly adhere the orders of the Hon'ble High Court. I state that I will use my good office to monitor that requisite decorum is maintained in the Hon'ble Court by the investigating authorities/police officers of my establishment. So also my good office shall keep timely tab on the presence of investigating officer/personnel during the effective hearings of application/petition in this Hon'ble Court. I further assure that henceforth I shall give priority to due compliance of orders of Hon'ble Court and circulars of the Director General of Police M.S. Mumbai in this regard. Also a new notice letter has been given to all police station incharge officers dated 19/6/2023.

6. WhatsApp group has been created by the Pune Rural Police for the work of the Hon'ble High Court. On this group, the information of the cases received from the Hon'ble Court is sent daily and it is reviewed daily.

7. Henceforth the matter before the Court will be in strict compliance with the orders and directions of the Hon'ble High Court keeping the Investigating Officer present on the date. The said instructions have been issued again to all police station incharge officers. I say that if due to unavoidable circumstances, if the Investigating Officer is not present, detail report about investigation and the reason for Investigating Officer not present before the Hon'ble Court will be forwarded to the concerned APP in order to avoid any inconvenience to the Hon'ble Court."

3. The statements made in paragraphs 5, 6 and 7 are accepted.
4. Apprehending arrest in connection with F.I.R. No.600 of 2022 lodged with Ranjangaon MIDC Police Station dated 30

November 2022 for the offence under Section 376, 504, 506 of the Indian Penal Code, 1860, the applicant is seeking relief of pre-arrest bail under Section 438 of the Criminal Procedure Code, 1973.

5. According to prosecution, the prosecutrix and the applicant were knowing each other as they were working in a company. The applicant had proposed to perform marriage with her. On 4 November 2022 at about 12.00 midnight the applicant came to prosecutrix's home and without her consent established physical relation. He also threatened her not to disclose the incident to anyone. It is only after the prosecutrix told her friend about the incident, a report was lodged on 30 November 2022.

6. The applicant, therefore, applied before the learned Sessions Judge for relief under Section 438 of the Criminal Procedure Code, 1973 which has been rejected by order dated 17 January 2023. The applicant, therefore, filed present anticipatory bail application.

7. Learned advocate for the applicant submitted that the applicant has been falsely implicated. It was consensual relationship. Due to pressure from her family members, she refused to marry and lodged false prosecution. In support of his submission, he relied upon the judgment of the Apex Court in **Dr. Dhruvaram Murlidhar Sonar v. State of Maharashtra & Ors.** reported in (2019) 18 SCC 191.

8. Per contra, learned advocate for the victim submitted that mere delay in lodging report in a case under Section 378 is not relevant factor at least at the stage of consideration of application

under Section 438 of the Criminal Procedure Code, 1973. According to her, sexual intercourse was forcible without her consent.

**9.** Learned APP supported the submission of the learned advocate for the victim. He invited my attention to statement under Section 164 wherein the victim in addition to narrating the incident has mentioned details of attempts by the applicant and his friends to coerce the applicant not to lodge the complaint. It is stated that the applicant along with an advocate friend tried to coerce the victim to sign a stamp paper containing a statement that she will not lodge a complaint against the applicant. The applicant along with other persons called victim's father and threatened him with dire consequences. The uncle offered Rs.5 lakh to the victim.

**10.** I have considered the case papers and statement of witnesses including statement of the victim recorded under Section 164. On prima facie perusal of the material on record, it appears that the victim has specifically stated about her refusal to have physical relationship with the applicant. Prima facie material on record supports victim's version. Whether there was consent, or not needs to be seen at an appropriate stage during trial or after completion of the investigation.

**11.** In so far as the judgment in **Dr. Dhruvaram Murlidhar Sonar** (supra) is concerned, in the facts of the case the Apex Court was considering proceedings arising out of Section 482 of the Criminal Procedure Code, 1973. Parameters for considering application under Section 482 are entirely different. In the facts of

the case, the investigation is complete. Entire material was before the Court to arrive at prima facie conclusion to ascertain whether continuation of proceedings would amount to abuse of process of Court. At this stage, the Court is considering the necessity of custodial interrogation of the applicant, which in the facts of the case is necessary.

**12.** Considering the nature and gravity of offence, and particularly attempts on the part of the applicant to force the victim not to lodge the report, the applicant is not entitled to the discretionary relief.

**13.** The anticipatory bail application stands rejected. No costs.

**14.** This Court by order dated 10 February 2023 had protected the applicant from arrest. Considering the said fact, ad-interim relief granted earlier is continued for a period of two weeks from today.

**(AMIT BORKAR, J.)**