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

ANTICIPATORY BAIL APPLICATION NO.1878 OF 2023

Rakesh Matasharan Shukla

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Ganesh Gole with Mr. Vivek S. Sharma for the Applicant.
Mr. S. R. Agarkar APP for the Respondent - State.
Ms. Chaitrali Sabale, API, CBD Belapur police station.

CORAM : S. M. MODAK, J.

DATED : 7TH AUGUST 2023

P. C. :

1. Heard learned Advocate Mr. Gole for the Applicant, learned APP Mr. Agarkar for the Respondent-State. The officer from CBD police station is present.

2. The FIR is registered with CBD police station, Belapur, Navi Mumbai under Sections 354, 509, 323, 500, 504, 506 and 427 of the Indian Penal Code.

3. I have read the FIR. In the FIR, the first informant has

quoted various incidents, right from July 2022 upto 6th March 2023. It includes the incidents of August 2022, 8th February 2022, 18th February 2023, 19th February 2023 and 6th March 2023. In view of those incidents, there is allegation of outraging her modesty. I find that allegation in the incident dated 8th February 2023.

4. Learned APP submitted that there is non-cognizable offence registered in respect of said incident and according to him Section 354 of IPC is not invoked. Similar allegation finds place in respect of incident dated 6th March 2023. Nothing is pointed out to me that there is police complaint and Section 354 of IPC is invoked.

5. The Applicant's Counsel submitted that Mahesh-husband of present first informant and the present Applicant, are real brothers and they are occupying different parts of row houses situated at Aaykar Colony, Sector 21/22. The present first informant is occupying ground floor and the Applicant is occupying the first floor. The first informant claims to be legal practitioner and her husband also practices law in this Court. It

is mentioned in the FIR. It seems that there are disputes in between both sides on account of use of that row house. Sometimes it is on account of incurring expenses of maintenance, sometimes it is on account of breaking open the lock of main door of row house, sometimes it is on account of stoppage of water supply, sometimes it is of peeping from hole on the door of dressing room used by the first informant and seeing from that hole about private life of the first informant. Similar incident is alleged on 19th February 2023, when the first informant was bathing. Two hand drawn maps are produced by learned Advocate for the Applicant. It is taken on record and marked as Annexure "X". It is in respect of ground floor and the first floor.

6. The report is filed by learned APP thereby opposing grant of anticipatory bail. The present Applicant is convicted in RCC No.2330 of 2018, for three years imprisonment and fine of Rs.500/-. Even police have initiated action under Section 107 as per Code of Criminal Procedure against present Applicant.

7. The allegation in the FIR indicates that the first informant has made certain allegations in respect of certain misdeeds

alleged against the present Applicant. It is true that some of them refers to outraging modesty of the first informant. All these incidents refer from July 2022 to 6th March 2023. Admittedly, the FIR is lodged on 8th April 2023. Even though few allegations are serious, the question is whether custodial interrogation of the Applicant is required. The answer is “No”. Though convicted in earlier offence, ultimately, merits of present offence needs to be considered.

8. After taking overall view of the situation, I am inclined to grant anticipatory bail to the Applicant. Hence, the order :-

ORDER

- (i) Anticipatory bail application is allowed.
- (ii) In case of arrest in connection with C.R. No.72 of 2023, registered with CBD police station, Belapur, Navi Mumbai for the offence punishable under Sections 354, 509, 323, 500, 504, 506 and 427 of the Indian Penal Code, the Applicant-Rakesh Matasharan Shukla, be released on furnishing Personal Bond and Surety Bond in sum of Rs.50,000/-.
- (iii) Applicant shall not threaten the prosecution witnesses.

- (iv) Applicant is directed to give attendance to CBD police station, Belapur, Navi Mumbai, Thane on every Monday from 10 am to 12 noon, till filing of the charge-sheet.
- (v) Needless to say, violating of the condition above will make the Applicant liable for cancellation of anticipatory bail, after notice to the Applicant.

9. It is made clear that these are my *prima-facie* observations.

10. Anticipatory bail application is disposed of in the aforesaid terms.

11. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]