

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1911 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Arjun Baburao Thakare ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Gaurav Parkar, i/b Rohan Sonawane, for the Applicant.

Mr. S. H. Yadav, APP for the State/Respondent.

Ms. Gauri Rao, Appointed Advocate for Respondent No.2.

PSI Vijay Bansude, Lashkar Police Station, Pune, present.

CORAM: N. J. JAMADAR, J.

DATED: 29th NOVEMBER, 2023

ORDER:-

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

2. This is an application for pre-arrest bail in connection with CR No.128 of 2023, registered with Lashkar Police Station, Pune City, for the offences punishable under Sections 354, 354A, 376, 504, 506, 509 and 511 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code"), Section 66C of the Information Technology Act, 2000 and Sections 3 and 25 of the Indian Arms Act, 1959.

3. The applicant had allegedly referred the first informant for employment at Atomic Trade Palace. Co-accused

Maheshwar Reddy, claimed to be the Chief Managing Director of the said Company and co-accused Chiraguddin Shaikh and Noorjahan Shaikh represented that they were partners of the said Company. The first informant alleged that co-accused Maheshwar Reddy had sexually exploited her. A couple of incidents of sexual exploitation have been attributed to the co-accused Maheshwar Reddy. Qua the applicant, the first informant alleged that, on 14th May, 2023 and 15th May, 2023, while she was in the office of Atomic Trade Palace the applicant had inappropriately touched her and thereby outraged her modesty.

4. When the application was listed before the Court on 10th July, 2023 this Court was persuaded to grant interim bail opining *inter alia* as under:

“2. The allegations against the applicant are of 14th and 15th May, 2023. The report is lodged on 11th June, 2023. The alleged messages between the applicant and informant on the alleged date of incidents does not indicate any untoward incident. The applicant has made out prima facie case.”

5. The learned Counsel for the applicant submitted that pursuant to the aforesaid order the applicant has appeared before the Investigating Officer and cooperated with the investigation. At best, the allegations against the applicant fall within the dragnet of the offence punishable under

Section 354A of the Penal Code. Inviting attention of the Court to the transcript of the conversation between the applicant and the first informant which preceded and succeeded the alleged acts of outraging the modesty, the learned Counsel for the applicant submitted that the applicant has been falsely roped in as the first informant had a dispute with the persons, who were managing the affairs of Atomic Trade Palace.

6. The learned Counsel for the first informant resisted the prayer for pre-arrest bail. It was submitted that the first informant had reposed confidence in the applicant. The allegations in the FIR indicate that the applicant had obtained money from Maheshwar Reddy for placing first informant in the said Company. Maheshwar Reddy is absconding. Custodial interrogation of the applicant is therefore warranted to facilitate effective investigation. An endeavour was made to draw home the point that the applicant can be said to have abetted the commission of offence of rape by Maheshwar Reddy.

7. I am afraid to accede to the aforesaid submissions. At best, the allegations qua the applicant are that of outraging the modesty of the first informant, on 14th and 15th May,

2023. However, the transcript of the conversation between the applicant and the first informant does not indicate that the first informant had raised any grievance or remonstrated about the alleged offending conduct of the applicant. On the contrary, the first informant had solicited advice from the applicant as the co-accused Maheshwar Reddy was repeatedly calling the first informant.

8. Even if the allegations in FIR qua the applicant are taken at par, the custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation. The material on record does not *prima facie* sustain a case of abetment of the offence of rape, sought to be pressed into service against the applicant. I am, therefore, inclined to make the order of interim bail absolute.

9. Hence the following order:

: O R D E R :

- (i) Order of interim bail dated 10th July, 2023 is made absolute on the terms and conditions incorporated therein.
- (ii) In addition, the applicant shall regularly attend the proceedings before the jurisdictional Court.

Application stands disposed.

[N. J. JAMADAR, J.]