



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.664 OF 2023

(Shaikh Rasool Shaikh Noor Vs. The State of Maharashtra and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. V.R. Deshpande, Advocate for the applicant.
Mr. N. Joshi, APP for the State.
Ms K. Deshpande, Advocate for non-applicant No.2

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- DECEMBER 12, 2023.

Heard.

2. By this application, the applicant is seeking anticipatory bail in connection with Crime No.588/2023 registered with Police Station Balapur, District Akola for offences punishable under Sections 376-C, 452 and 506 of the Indian Penal Code read with Section 4 and 25 of the Arms Act, 1959.

3. The applicant is apprehending arrest at the hands of police as crime is registered against the present applicant on the basis of order dated 21/08/2023 passed by the Judicial Magistrate First Class, Balapur in Criminal M.A. No.192/2023.

4. As per the allegation, the victim is residing along with her husband and her children. Her husband is agriculture labour. She further alleged that there was a friendship between the present applicant and her husband, and therefore, he used to visit her house. It is

alleged by her that the present applicant was having criminal antecedents and on several occasions he demanded sexual favours from her and also threatened her. On 20/06/2023, at about 2.30 a.m. he knocked the door of the informant. She and her husband open the door. Present applicant entered in her house holding knife in his hand and he pointed out the knife on her neck and subjected her for sexual assault by tying her legs and hands. On the basis of said report, police have registered the crime. It is further alleged by her that immediately she approached to the police but police have not taken any action, and therefore, she approached to the Superintendent of Police however, Superintendent of Police have also not taken any cognizance, and therefore, she filed complaint before the Magistrate Court.

5. Mr. Deshpande, learned Counsel for the applicant invited my attention towards the earlier reports filed by the victim. He submitted that initially on the basis of her report, crime was registered against the present applicant under Section 323 and 504 of the Indian Penal Code.

6. During investigation, it revealed to the investigating officer that no such incident has occurred and she has filed a false report. In fact, no such quarrel has taken place, and therefore, final report under Section 169 of the Code of Criminal Procedure was filed against the present applicant. He further submitted that on

23/06/2023, present applicant has filed FIR against the informant and her husband and against her brother on an allegation that on 22/06/2023, she has called the present applicant and her brother assaulted him by means of iron pipe and fists and kicked blows, due to which he has sustained the injuries. He submitted that as far as the present incident is concerned, she has lodged the report regarding the same while NC is registered under Section 504 and 506 of the IPC. In the said NC she has not alleged that she was sexually assaulted by the present applicant. He submitted that considering the initial complaint which was investigated by the Investigating Officer and it revealed that victim has lodged false complaint. It is apparent that she is in habit of lodging the false report against the present applicant due to the previous enmity. He submitted that it is specifically stated by the present applicant in the report lodged on 23/06/2023 that there was a love affair between the victim and the present applicant but as the applicant has performed marriage, and therefore, he has not continued the contact with the victim, and therefore, victim has called him and he was assaulted. He submitted that this fact is sufficient to show the intention of the informant to implicate the present applicant in a false case. As far as the custodial interrogation is concerned, it is not required and therefore the applicant be released on anticipatory bail.

7. Said application is strongly opposed by the State on the ground that as initially only NC report is

lodged by the police she approached to the Superintendent of Police but Superintendent of Police have also not taken any action, therefore, she knocked the door of the Magistrate Court. The Judicial Magistrate has considered and directed to register the First Information Report.

8. During investigation, the Investigating Officer has recorded the relevant statements who supports the allegations. In view of that, the application to be rejected.

9. Learned Counsel Ms Kirti Deshpande for the informant has also endorsed the same contention and submitted in support of her contention that the informant has filed the affidavit and submitted that considering the serious allegations against the present applicant, the bail application deserves to be rejected.

10. Having heard learned Counsel for the parties. Perused the investigation papers as well as the recitals of the FIR. From the recitals of the FIR it is alleged that on 20/06/2023 at about 2:30 a.m. present applicant has knocked the door and entered in her house along with the weapon and subjected her for sexual assault. While considering the allegations made by the informant, previous history needs to be taken into consideration. The documents filed on record by the applicant shows that initially also one crime was registered against the present applicant on the basis of report lodged by the present victim. During investigation, it revealed to the

investigating agency that the victim has lodged the false complaint. It further revealed to the Investigating Officer that in fact no such incident has occurred regarding the assault or the abuse on the victim, and therefore, NC final report was filed. It also revealed from the investigation papers that present applicant has filed FIR on 23/06/2023 alleging that on the day of alleged incident that is on 22/06/2023 it was the victim who has called him and he was assaulted by the brother of the victim.

11. Regarding the said incident also she has approached to the police station and lodged report. In the said report she had only alleged that the applicant entered in her house and threatened her due to which the police have only registered the NC report.

12. Taking into consideration the entire scenario and the previous dispute between the parties, it appears that out of all the previous dispute this report came to be lodged against the present applicant. As far as the investigation is concerned the Investigating Officer has also carried out the investigation, recorded the relevant statements of the witnesses. The victim was referred for the medical examination. During medical examination no injuries are found on the person of the victim. Even the allegation that the present applicant has pointed out the knife on her neck is also not substantiated by the medical certificate as no single external injury is found on the person of the victim. Considering the allegation and the

investigation papers, the physical custody of the present applicant is not required. As far as the medical examination of the applicant is concerned, some conditions can be imposed on the present applicant. In view of that, the application deserves to be allowed by imposing certain conditions :

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant – Shaikh Rasool Shaikh Noor in connection with Crime No.588/2023 registered with Police Station Balapur, District Akola for offences punishable under Sections 376-C, 452 and 506 of the Indian Penal Code read with Section 4 and 25 of the Arms Act, 1959, be released on anticipatory bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall attend the concerned police station once in a week i.e. on every Sunday between 10.00 a.m to 1.00 p.m. and shall cooperate with the Investigating agency.
- (iv) The applicant shall make available himself for the medical examination.
- (v) The applicant shall furnish his Cell phone number and address with address

proof before the Investigating Officer.

(vi) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

13. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*