



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 316 OF 2024

Dharmaraj @ Balu Vinayak Jadhav

....Applicant

VERSUS

The Superintendent Of Police And Another

.....Respondents

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Mr. D.S. Patil, Advocate for applicant.

Mr. N.B. Patil, APP for respondents.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th MARCH, 2024

ORDER :

1. Applicant apprehends arrest in C.R. No. 662 of 2023, registered with Omerga Police Station, Dist. Osmanabad, for offences punishable under sections 376, 376(2)(n), 307, 323, 504, 506 read with 34 of the Indian Penal Code.

2. FIR is lodged by victim alleging that her husband is working in Andhra Pradesh Police service. She has two son out of the wedlock. Her husband is not keeping well. Her father-in-law and mother-in-law are residing in a separate house. She resides separately with her sons. She is acquainted with applicant as applicant's house is situated near her in-laws' house. When she used to visit her in-laws house, applicant used to come there. He

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tried to develop friendly relations with her, but in vain. In the year 2020, in the month of November, at about 12.00 pm, when she was taking cattle for grazing to agricultural field, on seeing her alone, applicant came there. He told her that he is keeping constant eye on her and he want to sleep with her. He scuffled with her and made her lay on the ground, pressed her mouth, removed her clothes and forcibly committed sexual intercourse with her. He threatened to kill her husband and sons, in case she discloses incident to anybody. Therefore, she did not disclose incident to anybody. For last four years, from time to time, when she was alone in the house or in the agricultural field, applicant was committing sexual intercourse with her by giving threats to kill her family and to defame her. He assaulted victim by fists and kick blows and committed sexual intercourse against her will. Fade up with harassment, she narrated the incident to her in-laws. Her in-laws told applicant not to harass her. Applicant then threatened her in-laws that nobody can do anything to him and if they lodge complaint against him, they will not be spared. Due to fear of life and prestige of family, they did not lodge complaint against applicant. On 06.11.2023, at about 11.30 am, when victim was alone in the house, applicant came to her house. He started flirting with her. Victim was resisting him.

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Applicant's wife came to her house. She asked as to why she is flirting with her husband. She started abusing her and threatening her. Both of them abused her and scuffled with her. On seeing the neighbors, both the of them left the place.

3. Heard learned advocate for applicant and learned APP for respondents. Perused the investigation papers.

4. Applicant claims to be innocent and further claims that he was in consensual relation with victim. There are civil disputes going on between informant and her in-laws, so also her husband has issued legal notice to her attributing illicit relations, therefore, applicant is implicated in the present crime.

5. There is delay in lodging FIR. Admittedly, civil disputes are going on between informant and her in-laws and her husband has issued legal notice for divorce alleging that she has illicit relations with one person.

6. On going through FIR and material collected during the investigation, *prima facie*, there appears substance in the contention of applicant that relations between him and victim were consensual.

7. FIR is lodged on 14.12.2023 and investigation appears to be almost complete. Nothing is to be recovered from applicant, therefore, pre-trial custodial detention of applicant is not necessary.

8. In the result, application is allowed.

9. In the event of arrest of applicant- Dharmaraj alias Balu Vinayak Jadhav in connection with C.R. No. 662 of 2023, registered with Omerga Police Station, Dist. Osmanabad, for offences punishable under sections 376, 376(2)(n), 307, 323, 504, 506 read with 34 of the Indian Penal Code, he be released on executing P.B. and S.B. of Rs. 15,000/- with one surety in the like amount.

10. Applicant shall attend the concerned police station from 16th March, 2024 to 21st March, 2024, everyday, between 10.00 am to 2.00 pm, and shall submit himself for medical examination. Applicant shall not tamper the prosecution evidence.

[NITIN B. SURYAWANSHI, J.]