



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

973 ANTICIPATORY BAIL APPLICATION NO. 1005 OF 2024

Dipak Shriram Nagre

...Applicant

Versus

1. The State of Maharashtra
2. The District Superintendent
of Police, Jalna

...Respondents

...

Advocate for Applicant : Mr. S.S. Thombre

APP for Respondents: Mr. Mukesh K. Goyanka

Advocate to assist the A.P.P. : Mr. Mayur M. Subhedar

.....

CORAM : SHIVKUMAR DIGE, J.
DATED : 10th JULY, 2024.

PER COURT :-

1. The applicant apprehends arrest in connection with crime No. 124 of 2024 registered with Tembhurni Police Station, district Jalna, for the offence punishable under sections 376(2), 376(2)(h), 376(2)(e) of the Indian Penal Code.

2. It is the prosecution's case that on 3.6.2024 at around 8.30 a.m. there was pain in the abdomen of the informant, around 9.00 a.m. she went to the Government Hospital on motor cycle of her brother-in-law. There, she met the applicant, who is Medical Officer at Government Hospital. The applicant examined her by doing the PV test (by inserting his finger in her private part). Thereafter, the

applicant told her that the heart beats of the child are good but it is necessary to take blood report. It is alleged that the applicant had given injection dose for five days and told the informant to go to sister and take injections. Accordingly, the informant went to the sister but sister told her that those injections were not available in the Hospital. Hence, the informant came back to the applicant. Then the applicant told her to come at his private clinic and he will provide her the said injections. Accordingly, the informant alone went to the private clinic of the applicant. There, the applicant asked her to sleep on bed. He checked the informant's B.P. and then he again did PV test and kissed her private part and asked the informant 'is anything happening'. The informant told him 'nothing is happening'. Thereafter, the applicant gave her prescription of five injections. Then the informant returned back to the Government hospital. After reaching to the Government hospital, she took the mobile of one lady and informed her husband about the incident. Then her husband came there, then the informant lodged the report against the applicant.

3. It is the contention of the learned counsel for the applicant that the applicant has been falsely implicated in this case. Learned counsel further submitted that when the informant did not get injections prescribed by the applicant, she approached the applicant.

Then the applicant took her to his private clinic, which is in front of the police station. There, he asked the medical shop owner to give five injections to the informant. The medical shop owner gave the injections to the informant and demanded cost of it. Then the informant approached the applicant and stated that the medical shop owner is asking about cost of injections, as the applicant is doctor of Government Hospital, he should provide the said injections free of cost. The applicant told her that it is private medical shop and she has to pay cost of injections. On that, the informant got infuriated and she started quarreling with the applicant stating that the stock of injections in medical shop is of Government Hospital. The learned counsel further submitted that the applicant had tried to tell the informant the actual position but she was not in a mood to listen. Then she called her bother-in-law and her husband. The learned counsel further submitted that applicant has not examined the informant in his private clinic. He further submitted that his lady staff at private clinic was present when the informant had come there. Learned counsel further submitted that the applicant is Medical Officer. Considering the allegations against him, his custodial interrogation is not required and requested to allow the application.

4. It is the contention of the learned APP assisted by Mr. Subhedar, learned counsel, that the applicant did PV test on the

informant in the Government hospital. Thereafter, he did the same PV test in his private clinic. Learned A.P.P. further submitted that when the applicant was aware that before some time he did the PV test, again he performed the same test in private clinic that too without presence of lady staff. Learned A.P.P further submitted that after doing that test, the applicant kissed on the private part of the informant. Though the applicant is stating that the applicant has been implicated in the false case there is no reason for the informant to involve the applicant in false case. Learned A.P.P. further submitted that no injections were given to the informant nor the informant had quarreled with the applicant. It is after thought story created by the applicant. Considering the allegations, the custodial interrogation of the applicant is required. Hence he requested to reject the application.

Learned A.P.P. relied on ***Sumitha Pradeep vs. Arun Kumar C.K. and another***, delivered in Criminal Appeal No. 1834 of 2022, dated 21.10.2022.

5. I have heard all the learned counsel. Perused the F.I.R. and the police papers produced on record. It is alleged that initially the applicant did PV test on the informant in the Government hospital and thereafter he did the PV test on her in his private clinic and after

doing that test, he kissed on her private part. It is the contention of learned counsel for the applicant that the applicant has not checked the informant in his private clinic. No incident is happened as alleged in the F.I.R. In my view, at prima facie stage, the court has to see the allegations in the F.I.R. The applicant is the Doctor in Government Hospital. Initially, the applicant checked the informant in Government hospital. Thereafter, he asked the informant to come to his private clinic and there also he did the same PV test. Moreover, he kissed on her private part. The informant has lodged the complaint against the applicant due to non payment of injection amount. This defence cannot be considered at this stage, as immediately after the incident, the informant has lodged the report against the applicant. Considering the allegations against the applicant, the custodial interrogation of the applicant is required and I pass the following order :-

ORDER

The application is rejected.

(SHIVKUMAR DIGE, J.)

rlj/