



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 2100 OF 2023

BALASAHEB SITARAM PAWAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Sandip R. Andhale, Advocate for Applicant

Mr. B.M. Dhanure, APP for Respondents/State

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 22nd MARCH, 2024

PER COURT :

1. Applicant apprehends arrest in C.R. No.807/2023, registered with Shevgaon Police Station, Dist. Ahmednagar, for offence punishable under Sections 376, 506 of the Indian Penal Code.

2. Prosecutrix has lodged the FIR alleging that on 26/03/2023, she along with her husband had gone for marketing at Shevgaon. At about 03:30 p.m. they started their return journey. At that time applicant called her husband and offered them lift. Prosecutrix and her husband boarded the vehicle of applicant at Ambedkar Chouk, Shevgaon. On the way, truck was halted for attending nature's call. Prosecutrix was sitting in the truck. Applicant approached the truck and drove it without waiting for husband of prosecutrix. After some distance applicant stopped truck by the road side and raped prosecutrix. He also clicked her nude

photographs in his cell-phone and thereafter he left her at Akhadwade Fata. Prosecutrix did not disclose the incident to anybody. After some days, applicant again called her and asked her to meet him at Paithan and if she does not come then he will send her photographs to her husband and brother. Prosecutrix went to Paithan, she was taken to one hotel by applicant and there he again raped her. Applicant told her that he has deleted her photographs. Thereafter, she returned to her home. After few days again applicant called her at Paithan, where again by taking her to the hotel applicant committed rape on her. Thereafter also applicant kept on threatening that he will make her photographs viral. Ultimately, prosecutrix disclosed the incident to her husband and then she lodged FIR on 16/08/2023.

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

4. *Prima facie*, this Court was of the view that the relations appear to be consensual. Therefore, by considering delay in lodging the FIR and possibility of consensual relations, interim protection was granted to applicant, with a direction that he should co-operate in the investigation. Though applicant has attended police station, he has not handed over the cell-phone in which he has allegedly clicked nude photographs of prosecutrix.

5. Learned advocate for applicant submits that applicant was using old cell-phone at that relevant time which did not have camera and that cell phone he was ready to hand over to police, but they have not accepted it. Said statement cannot be accepted in view of specific allegation made in the FIR that applicant has clicked nude photographs of prosecutrix in his cell-phone and he used to threaten her that he will make those photographs viral.

6. Since applicant has failed to co-operate in the investigation, he does not deserve discretionary relief of anticipatory bail. Application is, therefore, rejected. Interim protection granted to applicant stands vacated.

(NITIN B. SURYAWANSHI, J.)