



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1324 OF 2024

Samadhan Pandit Dabhade
VERSUS
The State Of Maharashtra And Another

Mr. A. R. Syed h/r Mr. S. P. Pandit, Advocate for the applicant
Mr. S. B. Narwade, APP for the respondent/State
Mr. Y. B. Bolkar, Advocate for respondent no.3

CORAM : R. M. JOSHI, J.

DATE : 18th OCTOBER, 2024

PER COURT :-

1. Applicant apprehends arrest in connection with Crime No. 242/2024 registered with Amalner Police Station, Dist. Jalgaon for the offence punishable under Sections 376, 419, 420, 323, 504 r/w 34 of the Indian Penal Code.

2. First informant claims that her marriage was fixed with the applicant. It was arranged marriage. Engagement ceremony was performed on 26/01/2024. Haldi ceremony was scheduled on 28/04/2024 and marriage was to be held on 29/04/2024 at Sindkheda, Dist. Dhule. She claims that on 23/04/2024 applicant had taken her to her sister's home and asked for sexual favours. When she refused, he threatened her not to perform marriage with her unless she is accepts

his said demand. It is claimed that forcibly intercourse was established with her. She claims that out of fear she did not inform the said incident to others.

3. Leaned counsel for the applicant submits that due to ill health of the mother of the applicant, they could not reach the place of the marriage on 28/04/2024. However, when they reached the said place, the father of the informant declared that the marriage is cancelled. It is his submission that on the same day he was forced to execute the document wherein he has undertaken to pay a sum Rs. 6 lakhs to the father of the informant on 30/04/2024. It is contended that applicant had issued notice through Advocate on 09/05/2024. After issuance of said notice present report came to be lodged. It is his contention that this report is nothing but false implication of the applicant in this crime. According to him, applicant always had intention to marry informant which is apparent from he obtaining leave for the relevant period, however, now with filing of police complaint and embarrassment, he is not ready to marry her.

4. Learned APP and learned counsel for the informant opposed the application. It is the contention of the learned counsel for the informant that the informant is a lady and it was not possible for her to immediately go to the police and lodge the report and hence delay

caused in lodging of the report is not fatal. In the contention that the absence of applicant and his family on the date of haldi on 28/04/2024 itself it is sufficient to indicate that the applicant was never interested to marry the informant and in spite of the same he established physical relations with her. This according to him amounts to rape as on false promise of marriage sexual relations are kept.

5. No doubt, the statement of victim lady is required to be given due weightage when she alleges sexual relations without her consent. However, if prima facie it is found that this could be case of false implication and there is material to indicate so, the said same cannot be ignored by the Court. The fact as they appear from the record indicate that the marriage was to be performed on 29/04/2024. The fact that applicant took leave for marriage apparently indicates his intention to marry. Moreover, in first information report there is no case that on false promise of marriage physical relations are established but it is case of informant of forcible sexual relations.

6. Execution of the agreement dated 29/04/2024 clearly indicate that the applicant was present at Shirpur i.e. a place of informant, wherein the applicant has agree to pay Rs. 6 lakhs to the father of the informant on 30/04/2024. Thus it cannot be accepted that

on date of marriage applicant did not make himself available. It is pertinent to note that on the date of marriage itself, father of informant gets document executed from applicant. There was no disclosure of the incident of rape by informant even to her father when it was realized to her that the marriage with the applicant is aborted. This is contrary the natural conduct of any prudent person. The first thing any girl would do is to tell her father that there is physical relationship established with bridegroom and all possible attempts would be made to save marriage. Nothing in this regard seems to have happened herein.

7. In this backdrop the first information report has been lodged after 15 days of the execution of the said document and after notice was issued on behalf of the applicant to the informant and her father. Having regard to these facts, there is reason to believe that this could be case of false implication since applicant didn't pay agreed amount. In any case, custodial interrogation of the applicant is not necessary. Appropriate direction to him to appear before Investigating Officer and cooperate in investigation, would suffice purpose of investigation. He could be treated in the custody of police for this purpose. Applicant has no criminal history and that he is not likely to abscond. Hence, application is in following terms:

ORDER

(i) In the event of arrest of applicant in connection with Crime No. 242/2024 registered with Amalner Police Station, Dist. Jalgaon for the offence punishable under Sections 376, 419, 420, 323, 504 r/w 34 of the Indian Penal Code, he shall be released on bail on furnishing PR Bond of Rs.15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount.

(ii) He shall attend the concerned police station as and when required.

(iii) He shall not contact the witnesses directly or indirectly.

(iv) He shall not interfere with the evidence in any manner whatsoever.

(R. M. JOSHI, J.)

ssp