

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1483 OF 2024**

Siddharth Dashrath Bhosale ... Applicant

vs.

The State of Maharashtra ... Respondent

AND

ANTICIPATORY BAIL APPLICATION NO. 1485 OF 2024

Dr. Anil Tukaram Kadam ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Abhijit Kadam for applicant in ABA/1483/24.

Mr. Rahul Dhaygude a/w. Mr. Dipak Y. Jadhav for applicant in ABA/1485/24.

Ms. Rutuja A. Ambekar for respondent-State in ABA/1483/24.

Mr. Babu V. Holambe-Patil for respondent-State in ABA/1485/24.

CORAM : MANISH PITALE, J.

DATE : 20th JUNE, 2024

P.C. :

. Heard learned counsel for the applicants and learned APPs appearing for respondent-State.

2. These two applications have been filed by two accused persons apprehending arrest in connection with FIR No.0144 of 2024 dated 14.03.2024 registered at Phaltan City Police Station, District Satara for offences under Sections 313, 377, 354 and 354-A read with 34 of the Indian Penal Code, 1860 (IPC).

3. The applicant in Anticipatory Bail Application No.1483 of 2024 is accused No.1 and he is the husband of the informant (victim). The applicant

in Anticipatory Bail Application No.1485 of 2024 is a doctor and he is arrayed as accused No.5.

4. There are total five accused persons of whom accused Nos.2 and 3 (mother-in-law and father-in-law of the informant) and accused No.4 said to be the mediator, who arranged the marriage, have been granted relief of anticipatory bail by the Sessions Court. The applications of accused Nos.1 and 5 were rejected.

5. The FIR was registered on 14.03.2024 on the basis of statement given by the informant on the said date. Even as per the FIR, the incident had occurred during the period between 10.07.2023 to 13.02.2024. There is delay of one month in registration of FIR.

6. A perusal of the statement leading to registration of FIR shows that the informant has raised grievance about the manner in which she was ill-treated in the matrimonial house by applicant-accused No.1 after marriage. As against the applicant-accused No.1, the informant has made specific allegations pertaining to offence under Section 377 of the IPC regarding unnatural sex. The informant has also alleged that the offence under Section 313 of the IPC pertaining to causing miscarriage without the consent of the woman, was also committed by the accused persons, with an active role played by the doctor i.e. the applicant-accused No.5. The offences registered in the present case are undoubtedly serious.

7. The learned counsel for the applicant-accused No.1 submitted that the grievance of the informant has essentially arisen out of matrimonial disputes and that by the time the informant approached the police with her grievance, she exaggerated the harassment suffered by her, leading to registration of

serious offences. It is submitted that when the informant, in the first instance, raised her grievance before the police, particularly the redressal cell for women on 24.01.2024, there was no indication of such serious allegations, although the informant did claim that she was suffering harassment at the hands of applicant-accused No.1 and other accused persons in the matrimonial house. It is submitted that in this context, the delay in registration of FIR of more than one month becomes crucial and it can be said that serious allegations that have been made by the informant in her statement leading to registration of FIR, as an improvement and after-thought. It is submitted that the co-accused persons i.e. the parents of the applicant-accused No.1 have been enlarged on bail and since the applicant-accused No.1 is ready to co-operate with the investigation, this Court may consider allowing the present application for grant of anticipatory bail.

8. The learned counsel for the applicant-accused No.5 i.e. the doctor submitted that the papers filed alongwith the application of the said applicant, demonstrate as to the manner in which the informant was treated when abortion became inevitable, due to the health condition of the informant and the unborn foetus. It was submitted that the copies of the medical documents filed alongwith the application, would sufficiently demonstrate that even the primary health centre of *Zilla Parishad* recorded as to the manner in which the informant was bleeding and that part of the foetus was already protruding from the vagina. In such circumstances, the applicant-accused No.5 took all necessary steps and that the documents show that the abortion was inevitable. Attention of this Court was invited to the aforesaid written complaint given by the informant before the redressal cell for women, wherein she herself stated that at that point itself, she had a feeling that the foetus was likely to come out. On this basis, it was submitted

that the allegation levelled against the applicant-accused No.5 in context of Section 313 of the IPC, can be said to be far-fetched and that in any case, delay in registration of FIR needs to be taken into consideration by this Court.

9. On the other hand, the learned APPs appearing in both the applications opposed the prayers for grant of anticipatory bail. It was submitted that the applicant-accused No.1 can be said to be the main accused, who harassed the informant and inflicted physical abuse upon her, resulting in registration of offence under Section 377 of IPC. It was submitted that the manner in which the applicant-accused No.1 physically and mentally harassed the applicant, has been clearly described in the statement leading to registration of FIR.

10. It was further brought to the notice of this Court that a number of witnesses had stated during the course of investigation that the consent form was got signed by the accused persons on blank letterheads, leading to the procedure of abortion of the foetus. It was submitted that the aforesaid statements read with the allegations of the informant, sufficiently make out offence under Section 313 of the IPC and that therefore, the applications of both the accused persons deserve to be dismissed.

11. This Court has perused the material on record in order to appreciate the rival contentions. The statement of the informant dated 14.03.2024, leading to registration of FIR, indeed ascribes specific role to each of the accused persons. She has made serious allegations against the applicant-accused No.1 as regards the mental and physical abuse meted out by him. The informant has also made allegations against applicant-accused No.5 for having caused the abortion of the foetus.

12. But, this Court finds that the present case has its roots in the matrimonial disputes between the informant and her husband i.e. applicant-accused No.1. In fact, the parents of the applicant-accused No.1 have been roped in by the informant and it is to be noted that they have been already granted anticipatory bail by the Sessions Court. In such cases, it is significant as to the nature of grievance raised by the aggrieved person at the first point in time, when she approaches the authorities. In the present case, on 24.01.2024, the informant submitted a written complaint before the redressal cell for women of Phaltan police station. In this written complaint, although the informant did make allegations of harassment against the accused Nos.1 to 3, the allegations pertaining to perverted behaviour of applicant-accused No.1, were not made. In this context, registration of FIR after one month assumes significance and *prima facie*, it indicates improvement in the version stated before the police on 14.03.2024. As to what happened between the four walls of the room between the informant and applicant-accused No.1-husband, is a matter for trial, but at this stage, it is found that the informant did make allegations of such grievance of physical abuse against the applicant-accused No.1, leading to registration of FIR for offence under Section 377 of the IPC.

13. As regards offence under Section 313 of the IPC, the informant has indeed stated that under the pretext of treatment, she was taken to various doctors, including the applicant-accused No.5 and in that process, abortion was conducted.

14. The applicant-accused No.5 has placed on record documents pertaining to the treatment given to the informant from 12.02.2024 onwards at the primary health centre, *Zilla Parishad*, Satara, eventually leading to the

abortion conducted in Kohinoor hospital. The document of the primary health centre dated 12.02.2024 itself records leaking of fluid from the vagina of the informant and she suffering extreme pain in the pelvic region with bleeding. She was referred to Civil hospital at Satara and it appears that she was eventually taken to Kohinoor hospital, where the abortion took place. In all these papers, the expression “inevitable abortion” has been used by the doctors.

15. In this context, the statement of the informant in her written complaint dated 24.01.2024 placed before the women’s redressal cell, assumes significance as the informant herself stated that on 21.01.2024, she was feeling as if the foetus was moving out, indicating her health condition towards the end of January 2024 itself.

16. Taking into consideration the said material, at this stage, attributing criminality to the applicant-accused No.5 i.e. the doctor, in the context of offence under Section 313 of the IPC, can be said to be presumptuous and hence, the applicant-accused No.5 has made out a *prima facie* case in his favour. In any case, if the doctor is ready to place all the relevant documents before the Investigating Officer and he is ready to co-operate with the investigation, custodial interrogation may not be necessary. As to whether the informant and her father were made to sign on blank letterheads for consent, would be a matter for trial.

17. In view of the above, this Court is inclined to allow the present applications.

18. Accordingly, both the applications are allowed in the following terms:

(i) In the event the applicants Siddharth Dashrath Bhosale and Dr. Anil

Tukaram Kadam are arrested in connection with FIR No.0144 of 2024 dated 14.03.2024 registered at Phaltan City Police Station, District Satara for offences under Sections 313, 377, 354 and 354-A read with Section 34 of the IPC, they shall be released on bail on furnishing PR Bond of ₹ 50,000/- each (Rupees Fifty Thousand only) and one or two sureties in the like amount to the satisfaction of the trial court;

- (ii) both the applicants shall remain present before the Investigating Officer on 25.06.2024 between 10:00 a.m. to 12:00 noon and thereafter, as and when the Investigating Officer calls upon them to remain present;
- (iii) they shall provide all documents and material demanded by the Investigating Officer, as also the mobile phone, if so required by the said Officer.
- (iv) the applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses and other persons concerned with the case.
- (v) the applicants shall co-operate with the investigation and also in the proceedings before the trial court for early completion of trial.

19. In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.

20. Needless to say, the observations made in this order are limited to the disposal of the present anticipatory bail applications and the trial court shall proceed further in the matters without being influenced by the observations made hereinabove.

21. Both the applications stand disposed of.

(MANISH PITALE, J)