

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2048 OF 2024**

Anil Dilip Shinde	...	Applicant
vs.		
The State of Maharashtra and another	...	Respondents

Ms. Bhagyashri R. Mangale for applicant.

Ms. Rutuja Anil Ambekar, APP for respondent No.1-State.

Mr. M. N. Jagdale, API, Barshi Taluka Police Station, District Solapur.

**CORAM : MANISH PITALE, J.
DATE : 14th AUGUST, 2024**

P.C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent No.1-State.

2. The applicant is one of the three accused persons in the present case against whom FIR No. 0651 of 2023 dated 24.08.2023 has been registered at Karmala Police Station, District Solapur Rural for offences under Sections 376, 354, 354-A, 354-B, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. According to the informant, on 23.08.2023, when she was alone in her house, the two co-accused persons entered the house, abused her and while asking about the whereabouts of her husband, they held her hands and thereby outraged her modesty. She further stated that thereafter, the applicant i.e. the third accused person came into the house in a drunken state, again asked for the whereabouts of husband of the informant, abused her and established forcible sexual intercourse. It is on the basis of the aforesaid statement that the FIR has been registered.

4. The learned counsel for the applicant submits that the two co-accused persons have been granted anticipatory bail by the Sessions Court, *inter alia*, on the ground that the informant herself gave consent for the same. It is submitted that even as regards the present applicant, when his anticipatory bail application was pending before the Sessions Court, she had given a consent affidavit for enlarging him on bail. Copy of the said affidavit dated 03.11.2023 is placed on record with the application.

5. It is further submitted that this is a case of cross-FIRs, as an earlier FIR bearing No.0649 of 2023 dated 23.08.2023 was registered at the same police station for offences under Sections 354 and 354A of the IPC against the husband of the informant. The informant in the said FIR was the sister-in-law of the present applicant. It is submitted that therefore, this is a clear case of after-thought and counterblast and that this Court may allow the present application.

6. On the other hand, the learned APP specifically invited attention of this Court to the investigation papers, which include medical examination report of the informant/victim. It is submitted that the report corroborates with the description of the incident given by the informant. It is submitted that the statement of the informant was recorded under Section 164 of Criminal Procedure Code, 1973 (Cr.P.C.) on 28.08.2023, wherein she has reiterated the description of the incident, as given in her statement, which led to registration of FIR. It is submitted that thereafter, it appears that the informant may have been threatened and that is the reason why she has given a short affidavit dated 03.11.2023 before the Sessions Court, giving consent for relief being granted to the applicant. It is submitted that this is a serious matter, wherein *prima facie*, it appears that the informant was punished by the applicant and the co-accused persons in the backdrop of the

earlier FIR being registered.

7. This Court has perused the material on record. Although the co-accused persons have been granted anticipatory bail, their role is clearly distinguishable from the role of the applicant, for the reason that serious allegation pertaining to offence under Section 376 of the IPC is *prima facie* relatable only to the applicant. The medical examination report shows physical injuries on the body of the informant/victim that *prima facie* tally with the description of the incident given by the informant. It is significant that the statement of the informant recorded under Section 164 of the Cr.PC. recorded on 28.08.2023, clearly reiterates the description of incident as given in the statement of the informant, leading to registration of FIR. In other words, the informant has stuck to her version before the Magistrate on oath.

8. It is thereafter, that on 03.11.2023, somehow the informant appears to have taken a somersault and in a short cryptic affidavit, she has indicated that she has no objection to relief being granted to the applicant.

9. This Court is of the opinion that merely because a cryptic affidavit on behalf of the applicant is placed on record, the same cannot be a ground in itself to show any indulgence to the applicant. The material on record, particularly the statement of the informant recorded under Section 164 of the Cr.PC., demonstrates a strong *prime facie* case against the applicant in respect of the serious offence under Section 376 of the IPC.

10. No case is made out for granting anticipatory bail. The application is dismissed.

(MANISH PITALE, J)