

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1118 OF 2024

Shailesh Subhash Tiwari ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

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Mr. Bhavesh Magam a/w. Aniruddha Kulkarni for Applicant.
Ms. Poonam P. Bhosale, APP for State/Respondent.

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CORAM : SARANG V. KOTWAL, J.
DATE : 24 APRIL 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.190 of 2024 registered at Badlapur (West) Police Station, Thane, on 02.04.2024, under sections 376, 323, 504 and 506 r/w. 34 of the Indian Penal Code.
2. Heard Mr. Bhavesh Magam, learned counsel for the applicant and Ms. Poonam Bhosale, learned APP for the State.
3. The F.I.R. is lodged by the victim herself. She has stated that, she was working in a bank. The applicant's brother was working as the Assistant Manager. They were working

together. They got friendly. During Covid-19 period, they were constantly in touch through telephonic conversation. In August 2020, they had met at Powai. At that time, the applicant's brother proposed to her for marriage. The informant had accepted that proposal. It is alleged that, thereafter they had their physical relations. She has mentioned that it was against her wish, but they had kept their physical relations on different occasions. Whenever she asked about the marriage, he sought time till his elder brother i.e. the present applicant got married. He started ignoring the informant. Therefore, the informant had called the present applicant who was his elder brother. She informed the applicant about the relationship between his younger brother and the informant. At that time, the applicant had scolded her and had threatened her. Even after that, in December 2023 the applicant's brother and the informant had their physical relations.

4. On 25.12.2023, the applicant's brother went to the informant's house. He was accompanied by the applicant and their relatives. It is her case that, they started threatening her. When she said that she would lodge an F.I.R., all of them went away. On

these allegations, the F.I.R. was lodged.

5. Learned counsel for the applicant submitted that the main accused is his brother. He is already arrested and he is in custody. The applicant has no concern with the main offence under section 376 of the I.P.C. Only vague allegation against him is that he had scolded and threatened the informant. He submitted that the applicant's brother had paid certain amount to her. He relied on the bank entry at page-35 of this application showing that his brother had paid Rs.2 lakhs on 10.07.2023 to the informant. The applicant himself had sent one Email to the police on 26.12.2023 informing that the informant in his case and her family had assaulted them. The applicant's brother himself had given one application in the form of complaint to the police on 11.01.2024. After all this, the victim had lodged her F.I.R. on 02.04.2024.

6. Learned APP opposed these submissions. She relied on the statement in the F.I.R. According to her, the applicant had threatened the victim and, therefore, his role serious.

7. I have considered these submissions. From the F.I.R. it

is clear that basically it was in respect of relationship between the applicant's brother and the informant. Therefore, by no stretch of imagination the applicant can be said to be connected with the offence U/s.376 of the I.P.C. Apart from that, the informant herself had called the applicant at which point of time he had scolded and threatened her. Learned counsel pointed out that the applicant himself had sent an Email about the behaviour of the informant in December 2023 itself. His brother had also given a complaint. After all this, the F.I.R. is lodged. In any case, considering the allegations, the applicant is not involved in a serious offence. Therefore, he can be protected U/s.438 of the Cr.p.c.

8. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.190 of 2024 registered at Badlapur (West) Police Station, Thane, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- ii) The Applicant shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)