

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

ANTICIPATORY BAIL APPLICATION NO. 450 OF 2024

Akshay Gajanan Adhikari ..Applicant
Versus
The State of Maharashtra ..Respondent

**WITH
INTERIM APPLICATION NO. 1119 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 450 OF 2024**

Mr. Rishi Bhuta a/w. Pradeep Yadav, Saumitra Salunke i/b. Ms.
Swapnali Chavan for Applicant.

Mr. Swapnil V. Walve, APP for State/Respondent.

Mr. Sachin Thorat a/w. Mahendra Janrao i/b. Ashok Janrao for
Intervenor.

**CORAM : SARANG V. KOTWAL, J.
DATE : 5 SEPTEMBER 2024**

P.C. :

1. The Applicant is seeking anticipatory bail in connection
with C.R.No. 12 of 2024 registered at Shahapur Police Station,
Thane Rural, on 12.01.2024, under section 376 of the Indian Penal
Code.

2. Heard Mr. Rishi Bhuta, learned counsel for the applicant, Mr. Swapnil Walve, learned APP for the State and Mr. Sachin Thorat, learned counsel for the Intervenor.

3. The F.I.R. is lodged by the victim herself. She was 33 years of age. She was earlier married to her first husband. She had a daughter from that marriage. She was divorced afterwards. She got married second time to her second husband in the year 2020. Her second husband was already married and he used to visit the informant's house some times. It is alleged that, on 11.01.2024 in the midnight the applicant called her many times from his phone and in the midnight entered her house and established forcible physical relations with her. At that time her daughter woke up. The informant shouted. At that time, her husband returned home. In the meantime, the applicant ran away. On this basis the F.I.R. is lodged

4. Learned counsel for the applicant submitted that it was a consensual relationship. The applicant and the informant had exchanged many messages. Learned counsel for the applicant

relied on the screenshots of those messages. In particular, he relied on the messages at page Nos.39 and 40 of the memo of application. He submitted that the screenshots show that, on the date of incident itself at about 11:25p.m. the informant had called the applicant and that call had lasted for about 19 minutes. Thereafter the alleged incident had taken place. The message at page No.39 clearly indicates the consensual relationship. Learned counsel further submitted that the applicant had received the CCTV footage of the police station which he had obtained through the Right to Information Act. The said CCTV footage shows that the informant was beaten by her husband and he was forcing the informant to file this false F.I.R. against the applicant.

5. Learned counsel for the first informant opposed these submissions. According to him, the incident was witnessed by the informant's 12 year old child. Her statement is included in the charge-sheet; that supports the prosecution case.

6. Learned APP, on instructions, stated that, after the ad-interim protection, the applicant has attended the police station

and has co-operated with the investigation. He submitted that the investigation in this case is completed and the charge-sheet is already filed. Learned APP, on instructions, states that the contentions of the applicant about the CCTV footage that, the informant's husband was forcing her to lodge the F.I.R. are correct.

7. I have considered these submissions. The screenshots of the messages and the communication between the informant and the applicant, referred to herein above, strongly indicate that it could be a consensual relationship. Learned APP's submission on instructions that the informant's husband was forcing her to lodged F.I.R. is also a circumstance strongly in favour of the applicant. The investigation is already over. In this background, the applicant can be protected by an order U/s.438 of the Cr.p.c. It is clarified that these observations are made only for deciding this application. The learned Trial Judge at the appropriate stage shall not be influenced by these observations. Considering all these aspects, I am inclined to grant anticipatory bail to the applicant.

8. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No. 12 of 2024 registered at Shahapur Police Station, Thane Rural, 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 Application is disposed of.
- iii) In view of disposal of anticipatory bail application, the interim application is also disposed of.

(SARANG V. KOTWAL, J.)