

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 845 OF 2024

Akash @ Bunty Suresh Pisal ...Applicant
Versus
The State of Maharashtra and anr. ...Respondents

Ms. Sana Raees Khan, for the Applicant.
Mr. A. A. Naik, APP for the State.
API Prakash Pawar, Indapur Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 24th JUNE, 2024

PC:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is second application for pre-arrest bail in connection with CR No.750 of 2023, registered with Bhigwan Police Station, for the offences punishable under Sections 376(2)(n), 354C and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
3. The first application for pre-arrest bail was rejected by this Court by an order dated 14th December, 2023, ascribing reasons.

4. Ms. Sana Raees Khan, the learned Counsel for the applicant, submitted that since the rejection of the first application there has been a change in the circumstances as, in the intervening period, charge-sheet has been lodged.

5. I am afraid, the fact that charge-sheet has been lodged against the co-accused constitutes such a change in circumstances as to warrant a fresh consideration of a prayer for pre-arrest bail.

6. Suffice to note the reasons which weighed with this Court in rejecting the first ABA/3464/2023. Paragraphs 11 to 15 of the said order read as under:

“11. Prima facie, there is material to show that initially accused No.1 subjected the first informant to harassment and sexual exploitation. Later on, on the pretext of saving her from further exploitation, the applicant also subjected her to forcible sexual intercourse. What aggravates the situation is the allegation that the applicant obtained the video containing objectionable material from the co-accused for monetary consideration and abused the first informant by giving threats. To add to this, the first informant alleges, the accused No.1 and the applicant joined hands and exploited her on multiple occasions together.

12. As noted above, the accused No.1 has been arrested and the mobile phone handset, seized from the accused No.1 contains incriminating material. The first informant has also given necessary particulars of places where she was exploited and the evidence which bears out those allegations.

13. It is trite, the version of the prosecutorix does not require corroboration. At this stage, especially in the context of absence of the claim of consensual relationship, the grave allegations in the FIR cannot be brushed aside either on the count of being inherently improbable or

delay. Prima facie, it appears that the first informant got embroiled in vicious circumstances and was exploited over a period of time. In the aforesaid view of the matter, I am not inclined to accede to the submissions of Mr. Patil.

14. The lodging of the FIR for extortion, prima facie, appears to be a double edged tool. The allegation of extortion do not rule out the allegation of sexual exploitation. Existence of material to support the allegations of sexual harassment of the first informant at the hands of the applicant, could furnish a ground for attempt of extortion as well.

15. Since it is alleged that post lodging of the FIR, there have been attempts of intimidation and also having regard to the nature of the allegations, the apprehension on the part of the prosecution that there is a strong possibility of tampering with evidence and threatening the first informant and witnesses cannot be said to be unfounded.”

7. In the backdrop of the nature of the accusation, gravity of the offences and the aforesaid reasons which persuaded this Court to reject the prayer for pre-arrest bail, in my considered view, there is no justifiable reason to again entertain a prayer for pre-arrest bail.

8. Hence the following order:

: O R D E R :

Application stands rejected.

[N. J. JAMADAR, J.]