

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1484 OF 2024

Kamlakar Mahadu Dhoom	...	Applicant
Vs.		
State of Maharashtra	...	Respondent

Mr. Amey Deshpande a/w. Mr. Harsh Nishar, Mr. Jitendra Aher and Ms. Vandana Bait for Applicant.

Mr. Mayur S. Sonawane, APP for Respondent-State.

Mr. Sanjaykuamr Ramnath Bramhane, Police Inspector, Jawahar Police Station, District - Palghar.

CORAM : MANISH PITALE, J.
DATE : JUNE 20, 2024

P.C. :

1. Heard Mr. Deshpande, learned counsel appearing for the applicant and Mr. Sonawane, learned APP appearing for the respondent - State.

2. The applicant has approached this Court apprehending arrest in connection with FIR No.0107 of 2024 dated 03.05.2024 registered at Jawahar Police Station, District - Palghar for offences under Sections 376(2), 420, 504 and 506 of the Indian Penal Code, 1860 (IPC).

3. The statement of the informant recorded by the police shows that according to her, the applicant lured her into having physical relationship with him on the false promise of marriage. It is also alleged that the applicant took certain amounts of money from the informant giving a false promise of finding her a job. On this basis, offences have been registered under the said provisions.

4. The learned counsel appearing for the applicant submits that both, the applicant and the informant, are married and this fact was clearly

within the knowledge of the informant. It is submitted that even in the statement leading to registration of the FIR, the informant herself has stated that she was aware about the fact that the applicant was a married man. It is submitted that the tenor of the allegations indicates that despite being aware of the aforesaid factual position, she maintained physical relations with the applicant on the expectation that she would eventually get married to him. It is submitted that the ingredients of the offence under Section 376(2)(n) of the IPC are not made out in such circumstances. It is also submitted that the allegation regarding amounts taken by the applicant is in the backdrop of the statement of the informant herself that a sum of Rs.2 lakhs was paid by the applicant to the husband of the informant in order to facilitate divorce between them.

5. It is submitted that at worst, it can be alleged against the applicant that he was in an extramarital relationship with the informant, while both parties were married individuals. It is further submitted that the FIR in the present case is also delayed as the occurrence of the offence is alleged to be between 01.01.2023 and 29.02.2024, while the FIR was registered on 03.05.2024. On this basis, the learned counsel for the applicant prays for anticipatory bail.

6. On the other hand, the learned APP submits that allegations regarding false promise of marriage and in that context having physical relations with the informant are clearly made out. It is submitted that specific details have been given about the manner in which the informant paid amounts to the applicant totalling Rs.1.10 lakhs on a promise of finding a job for her. It is further submitted that the ingredients of the offence are made out and since the investigation is at initial stage, this Court may allow the present application.

7. This Court has perused the material on record in order to appreciate the rival submissions. The statement of the informant, leading

to registration of the FIR, shows that according to her, she came in touch with the applicant in the year 2023. The statement clearly indicates that the informant herself was aware about the fact that the applicant was a married man. In fact, the informant herself is a married person and despite the said factual position, a relationship appears to have developed between the applicant and the informant. In such a situation, *prima facie*, the allegation about the applicant having physical relationship with the informant on a false promise of marriage appears to be doubtful. It was not as if the applicant projected himself as an eligible bachelor and on the basis of such an impression, the informant got into the relationship with him. In any case, the marital status of the informant is undisputed. In fact, there is reference to the manner in which she allegedly took the steps for separating from her husband on the promise of the applicant marrying her. Such an allegation also loses its steam for the reason that even according to the informant, she was well aware that the applicant was a married man.

8. As regards the allegation about the applicant having taken amount of Rs.1.10 lakhs on a false promise of finding a job for the informant, the said allegation has to be appreciated in the backdrop of the statement of the informant herself that the applicant had given a sum of Rs.2 lakhs to the husband of the informant for executing a “सोडचिठ्ठी”. There is nothing on record to indicate that the informant has divorced her husband in any manner known to law.

9. These factors coupled with the delay in registration of the FIR indicate that the applicant has indeed made out a *prima facie* case in his favour and that the present application deserves to be allowed. Accordingly, the application is allowed in the following terms:-

A. In the event the applicant is arrested in connection with FIR No.0107 of 2024 dated 03.05.2024 registered at Jawahar

Police Station, District - Palghar, he shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand only] and one or two sureties in the like amount to the satisfaction of the trial Court;

- B. The applicant shall remain present before the investigating officer on 25.06.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

10. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

11. The application is disposed of.

(MANISH PITALE, J.)

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