

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

ANTICIPATORY BAIL APPLICATION NO. 2328 OF 2024

Nayanesh Subhash Wazkar

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Hrishikesh P. Giri (Through V.C.) a/w Mr. Swapnil P. Chopade, for Applicant.
- Mr. Sagar R. Agarkar, APP for Respondent.

CORAM : MANISH PITALE, J.

DATE : 05th SEPTEMBER, 2024.

P. C. :

1. Heard, Mr. Giri, learned counsel for the applicant and Mr. Agarkar, learned APP for the State.

2. The applicant is apprehending arrest in connection with First Information Report No.0155 of 2024, dated 05.06.2024, registered at Police Station Bund Garden, District Pune, for offences under Sections 354, 506 and 509 of the Indian Penal Code (IPC).

3. The informant is a peon working in an office and the applicant is working as clerk in the very same office. The informant has alleged that the applicant committed certain acts which had the effect of outraging her modesty and on the basis of the allegations leveled against the applicant, the aforementioned FIR came to be registered.

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4. The learned counsel for the applicant submits that even if the allegations leveled against the applicant are to be taken into consideration, at worst, ingredients of offence under Section 354 (A) of the IPC could be said to be made out and not Section 354 of the IPC. The offence under Section 354(A) of the IPC being bailable, it is submitted that this Court may consider allowing the present application, as the applicant undertakes to cooperate with the investigation.

5. On the other hand, learned APP submits that, at this stage itself, it may not be safe to reach any conclusion with regard to the nature of offences registered against the applicant, for the reason that the informant has described in detail the acts of the applicant, which *prima facie* do indicate his intention to outrage her modesty.

6. This Court has specifically considered the statement of the informant, which led to registration of the FIR. The allegations are in two parts. The first part pertains to the manner in which the applicant allegedly used to touch the informant in the office, thereby outraging her modesty. The second part pertains to an incident dated 28.05.2024, when the applicant allegedly called up the informant on her birthday and sought sexual favours.

7. Having considered the aforesaid allegations, *prima facie*, this

Court is of the opinion that the allegations appear to be covered under Section 354(A) of the IPC, specifically under Section 354(A)(1)(i) and (ii) thereof. The offence under Section 354 of the IPC necessarily involves the element of assault or use of criminal force against a woman with the intention to outrage her modesty.

8. Since the applicant has made out a *prima facie* case in his favour and he has undertaken to cooperate with the investigation, this Court is inclined to allow the application.

9. In view of the above, the application is allowed in the following terms :

(A) In the event the applicant is arrested in connection with FIR No.0155 of 2024, dated 05.06.2024, registered at Police Station Bund Garden, District Pune, for offences under Sections 354, 506 and 509 of the Indian Penal Code, he shall be released on bail on furnishing P.R. Bond of ₹ 25,000/- 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 09th September, 2024, between 10:00 a.m. and 12:00 noon and thereafter as and when

called by the Investigating Officer. He shall cooperate with the investigation.

(C) The applicant shall not contact the informant and he shall not harass her in any manner.

(D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

10. Needless to say, violation of any of the aforesaid conditions may lead to cancellation of the present order.

11. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

12. The application is disposed of.

(MANISH PITALE, J.)