

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

ANTICIPATORY BAIL APPLICATION NO. 2452 OF 2024

Nilesh Bhagwan Korhale

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

- Mr. Hrushikesh Sayaji Korhale a/w Ajinkya Vilas Taskar, for Applicant.
- Mr. Mayur S. Sonavane, APP for Respondent No.1
- Ms. Komal Sinha, for Respondent No.2.

CORAM : MANISH PITALE, J.

DATE : 19th NOVEMBER, 2024.

P. C. :

1. Heard learned counsel for the applicant, the learned APP for the respondent – State and learned counsel appointed to appear on behalf of the first informant (respondent No.2).

2. By order dated 13th September, 2024, this Court while issuing notice to respondent No.2, had granted interim relief in favour of the applicant, subject to specific conditions, including a direction to remain present before the Investigating Officer on 18th September, 2024 and thereafter as and when called by the Investigating Officer.

3. The learned APP, on instructions, submits that the applicant indeed appeared before the Investigating Officer as directed by this Court, he remained present for medical examination and that he also surrendered his mobile phone as per direction issued by this Court.

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4. In view of the above, this Court is of the opinion that the applicant has indeed cooperated with the investigation.

5. The learned counsel for the applicant submits that now charge-sheet is also filed and even if the statements of the witnesses and other material forming part of the charge-sheet are taken into consideration, the present application deserves to be allowed. It is submitted that this is a case of love affair between the informant and the applicant and the first alleged incident of forcible sexual intercourse was said to have taken place about 5 years before registration of the FIR. It is emphasized that even when the last such alleged incident took place, it took 25 days for the informant to cause the FIR to be registered. On this basis, it is submitted that this Court may allow the present application.

6. The learned APP relied upon statement of the informant, which led to registration of the FIR, particularly last portion thereof, to submit that sufficient explanation was given by the informant as to why the FIR could be registered only on 19th July, 2024, while when the last incident had taken place on 24th June, 2024. It was submitted that in the supplementary statement of the informant, she has made further serious allegations against the applicant about having threatened her with using a video recording and photographs. It was submitted that serious offences are registered against the

applicant and therefore, this Court may not show indulgence.

7. The learned counsel appearing for respondent No.2 submitted that after the last incident of 24th June, 2024, the husband of the informant had reached out to his in-laws, hoping for appropriate action being promptly taken in the matter but, when they refused to support the informant, he came out alongwith the informant to contact the police. Initially, the police station to which the informant and her husband reported, refused to register the FIR and eventually it could be registered only in Police Station Nandgaon District Nashik, which sufficiently explains the perceived delay in registration of the FIR. It is submitted that from the very beginning i.e. the year 2018-2019 onwards, the parents of the informant had not supported her and therefore, this Court may not proceed on the basis that there is delay of 5 years in registration of the FIR.

8. While granting interim relief to the applicant, this Court had observed as follows :

“6. At first blush, the ingredients of offences registered against the applicant can be said to be made out only on the statement of the informant, as she has indeed alleged that the applicant had indulged in forcible sexual intercourse with her on various occasions. Considering the communities to which the applicant and the informant belong, the offences under the Scheduled Caste and

Scheduled Tribes (Prevention of Atrocities) Act, have also been registered.

7. *But, a perusal of the FIR itself shows that the first incident alleged against the applicant is stated to be of the year 2019. This is a clear 5 years prior to the registration of the FIR. The narration of such incidents alleged to have taken place from the year 2019 onwards does not give specific details and general allegations are made about occasions on which the applicant used to allegedly forced himself on the respondent No.2. In the statement, reference is thereafter made two incidents in November, 2023 and one in February, 2024. All along, it is claimed that the informant and her family was so terrorized that they could not raise their voice.*
8. *Thereafter, it is stated that on 28.04.2024, the informant got married and went to another village to stay. The informant has then alleged that on 24.06.2024, the last such incident of forcible sexual intercourse took place and this time in the matrimonial house of the informant. It is pertinent to note that the FIR was registered after about 25 days of the last such alleged incident. If the delay in registration of the FIR is considered from the first alleged incident, there is delay of 5 years in approaching the police.*
9. *This Court is of the opinion that on this ground alone, the applicant appears to have made out a prima facie case in*

his favour and hence, while keeping the present application pending, interim relief can be granted to the applicant. Appropriate conditions shall be imposed to ensure that the applicant in no manner influences or contacts the informant, during the pendency of the present application. The applicant has undertaken to cooperate with the investigation.”

9. Even if the contention of the learned APP as regards sufficient explanation for delay is to be taken into consideration, this Court is of the opinion that according to the informant, she had approached earlier Police Station on 11th July, 2024, for registration of the FIR. The aforesaid fact indicates that if the last alleged incident of 24th June, 2024, is to be taken into consideration, there was still a delay about two weeks in approaching the Police. Apart from this, it is to be noted that the allegations pertaining to forcible sexual intercourse against the applicant have been made by the informant for the period starting from the year 2018-2019. In her statement, which led to registration of the FIR, she submitted that she had informed her parents and uncles about such incidents, but they had dissuaded her from approaching the police on the ground that the family of the applicant had created atmosphere of terror in the neighbourhood.

10. This is *prima facie* contradictory to the statements of the parents recorded during the course of investigation, wherein they have stated that the

informant never informed them about incidents of forcible sexual intercourse from the year 2018-2019 onwards. The supplementary statement of the informant for the first time refers to a video clipping allegedly recorded by the applicant, which he was using to force the informant to click photographs with him. *Prima facie*, such supplementary statement recorded on 16th September, 2024, after the order of interim relief was passed on 13th September, 2024, *prima facie* appears to be an afterthought.

11. The above quoted reasons recorded in the interim order dated 13th September, 2024, hold good for allowing the application itself, particularly when the applicant has cooperated with the investigation.

12. In view of the above, the interim order dated 13th September, 2024, is confirmed and the application is allowed.

13. It is made clear that the observations made in the interim order dated 13th September, 2024 and in the order passed today are only for the purpose of deciding the anticipatory bail application.

14. Needless to say, the concerned Trial Court shall not be influenced by the observations made hereinabove, during the course of trial.

(MANISH PITALE, J.)