

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2932 OF 2024**

Amol Mahadev Bhaskar	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Rishikesh Mohite a/w. Mr. Sarthak Shetty for applicant.

Mr. Bapu V. Holambe-Patil, APP for respondent-State.

Mr. Kunal Patil a/w. Mr. Prashant P. Raul for complainant.

**CORAM : MANISH PITALE, J.
DATE : 11th NOVEMBER, 2024**

P.C. :

1. Heard learned counsel for the applicant, the learned APP for the respondent-State and the learned advocate having instructions to appear on behalf of the first informant.

2. The applicant in the present case has approached this Court apprehending arrest in connection with FIR No.0494 of 2024 dated 07.08.2024, registered at Rajarampuri Police Station, District Kolhapur, for offences under Sections 78, 79 and 127(1) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

3. The statement of the informant, leading to registration of FIR, shows that according to her, the applicant has been repeatedly pursuing her, even when she was driving her vehicle and that he has, by undertaking such acts, attracted the aforesaid offences.

4. At the outset, the learned counsel appearing for the applicant was at pains to point out that all the 3 offences registered in the present case, are bailable offences and that an occasion to file the present application, ought not to have arisen, but for the fact that that an anticipatory bail application was filed before the Sessions Court was heard and rejected on merits. It is submitted that none of the offences in the present case are non-bailable and therefore, this Court may consider the same and grant relief to the applicant.

5. On the other hand, the learned APP and the learned advocate having instructions to appear on behalf of the first informant, submitted that earlier FIRs have been registered against the applicant on similar allegations. Although he was released on bail in connection with the earlier FIRs, he has violated the conditions imposed by the concerned Court by continuing to contact the first informant and harassing her. It is further informed that an application is already moved by the first informant for cancellation of bail granted to the applicant, in respect of the earlier FIRs. It is submitted that in such a situation, this Court may not entertain the present application, as the applicant does not deserve any indulgence.

6. This Court is of the opinion that the effect of the alleged acts of the applicant on the bail granted to him in respect of the earlier FIRs, will have to be appropriately tested in the application moved by the first informant for cancellation of bail. The present application is limited to considering the question as to whether the applicant deserves to be granted relief in the present application, in the context of the subject FIR, the details of which have been noted hereinabove.

7. A perusal of the FIR shows that the offences under Section 78, 79 and 127(1) of the BNS have been registered against the applicant. Section 78 of the BNS pertains to the offence of stalking, which is a bailable offence and it becomes non-bailable only upon the second or subsequent conviction of the accused person. There is nothing to show that the applicant had been earlier convicted for the said offence and hence, with respect of the subject FIR, the offence under Section 78 of the BNS is a bailable offence.

8. Offence under Section 79 of the BNS pertains to words or gestures or acts intending to insult a woman's modesty and it is a bailable offence. Section 127(1) of the BNS pertains to wrongful confinement and it is a bailable offence, except when the wrongful confinement is for 10 or more days. A bare perusal of the statement of the informant shows that she has not even alleged that she had been wrongfully confined for 10 or more days. Therefore, the said offence, in the context of the present FIR, is bailable.

9. In such a situation, the applicant was not even required to move an anticipatory bail application. But, it appears that due to advice given to the applicant, such an application was indeed moved before the Sessions Court. But, the Sessions Court completely ignored the fact that the offences registered against the applicant in the present FIR, are bailable.

10. In view of the observations made hereinabove, this Court is of the opinion that the application deserves to be allowed and the apprehension expressed by the learned APP can be addressed by specifically directing the applicant to remain present before the investigating officer and to co-operate with the investigation.

11. In view of the above, the application is allowed in the following terms:
- (i) In the event the applicant is arrested in connection with FIR No.0494 of 2024 dated 07.08.2024, registered at Rajarampuri Police Station, District Kolhapur, he shall be released on bail on furnishing PR Bond of ₹ 15,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
 - (ii) The applicant shall remain present before the Investigating Officer on 14.11.2024 and 15.11.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.
 - (iii) the applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case;
 - (iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.
12. In the event, the applicant violate any of the conditions specified in this order, it shall be liable to be cancelled.
13. 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.
14. The application stands disposed of.

(MANISH PITALE, J)