

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

ANTICIPATORY BAIL APPLICATION NO. 3276 OF 2024

Shiven Mohan

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

- Mr. Dilip Bodake, for Applicant.
- Ms. Megha S. Bajoria, APP for Respondent No.1.
- Ms. Priyanka Kharatimal, API, Kamothe Police Station.

CORAM : MANISH PITALE, J.

DATE : 09th DECEMBER, 2024.

P. C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with First Information Report No.0172 of 2024, dated 29th June, 2024, registered at Police Station Kamothe, Navi Mumbai, for offences under Sections 354-A, 504, 506, 417 and 354-D of the Indian Penal Code, 1860 (IPC). Subsequently, upon a supplementary statement being recorded on 23rd July, 2024, offence under Section 376 of the IPC, was also added against the applicant.

3. The initial statement of the informant was recorded on 29th June, 2024, wherein she gave details of how relationship between her and the

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applicant was initiated and then she made certain allegations against the applicant. In the supplementary statement she elaborated upon the allegations and in that context the aforesaid offences have been registered. In the interregnum between her first statement and the supplementary statement, the informant also give a written complaint on 12th July, 2024 to the Commissioner of Police, Navi Mumbai and other Senior Officers specifically alleging that she had signed the papers pertaining to her first statement, which led to registration of the FIR under the belief that the grievance she had stated before the Police Officer had been properly recorded. It later came to light that the contents of that statement were not exactly as to what the informant had allegedly told the Police Officer.

4. The learned counsel for the applicant attacked the supplementary statement of the informant as being an afterthought and only with the intention of having aggravated offences registered against the applicant. It is submitted that the initial statement, upon which the FIR was registered, does not refer to any single allegation about any act on the part of the applicant that would justify registration of the offence under Section 376 of the IPC. It is emphasized that therefore, even when the FIR was registered, no offence under Section 376 of the IPC was registered. It was further submitted that the FIR can be said to be delayed as the alleged incidents took place about two months before the FIR was registered. It is submitted that the applicant is

ready to cooperate with the investigation and therefore, this Court may allow the application.

5. On the other hand, the learned APP vehemently opposed the application and apart from referring to the initial statement and the supplementary statement, also relied upon a written complaint dated 25th June, 2024 given by the informant before the very same Police Station. Detailed allegations of sexual harassment were recorded therein, which would justify even registration of offence under Section 376 of IPC. Reference was also made to copy of the whatsapp chats that were filed alongwith the application showing that all along the applicant was extending promises to the informant about getting married at the earliest. The fact that the applicant is a married man with two children is something which indicates the criminal mind of the applicant. There is also an allegation about certain photographs and videos of the informant with the applicant, which he was likely to misuse. It was submitted that in the face of such serious allegations, this Court may not show any indulgence to the applicant.

6. Since there are statements given by the informant at various points in time, this Court has perused them in a chronological order. The first statement in the form of written complaint dated 25th May, 2024, was submitted by the informant before the very same Police Station. It is a

detailed statement levelling serious allegations against the applicant, including given details of acts of the applicant, which would *prima facie* qualify for registration of the offence under Section 376 of the IPC.

7. Yet, when the initial statement dated 29th June, 2024, was given to the Police, which led to registration of the FIR, allegations were indeed recorded, but they appear to be falling short of attributing any act to the applicant for offence under Section 376 of the IPC. This, *prima facie*, appear a bit surprising, considering the fact that in the aforesaid initial written complaint dated 25th May, 2024, submitted before the very same Police Station, the informant had made such serious allegations. There is nothing to indicate as to what action the police had taken on the said written complaint dated 25th May, 2024.

8. In this backdrop when the written complaint dated 12th July, 2024 of the informant addressed to Senior Police Officers is perused, there appears to be *prima facie* substance in the specific allegation made in paragraph No.10 of the complaint that signatures of the informant were taken on certain papers giving her an impression that all her grievances had been recorded. Thereafter, the supplementary statement dated 23rd July, 2024, is recorded, wherein allegations pertaining to the offence under Section 376 of the IPC were recorded and there was reference made to certain videos etc.

9. Considering the chronological order of events and the manner in which the statements of the informant were recorded, this Court is unable to agree with the applicant that *prima facie* case for offence under Section 376 of the IPC is not made out. Considering the fact that the first written complaint was submitted by the informant on 25th May, 2024, before the very same Police Station, the contention that the FIR is delayed can also not be accepted at this stage.

10. It is also a matter of record that the applicant is a married man with two children. In that context, when the contents of the whatsapp chats are perused, *prima facie* impression is gathered that the applicant was giving out promises of marriage to the informant knowing full well that he being a married man could never live up to such a promise.

11. No case is made out for granting anticipatory bail. The application is dismissed.

(MANISH PITALE, J.)