



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

57 ANTICIPATORY BAIL APPLN NO.1546 OF 2024

**AKASH SUBHASH THETE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant : Mr.D.A.Madake
APP for Respondent-State : Mr.G.O.Wattamwar
Advocate for Respondent no.2 : Mr.M.L.Kolhe

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**CORAM : ARUN R. PEDNEKER, J.
DATE : 01.04.2025**

P.C. :

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

2] The applicant is apprehending arrest in connection with Crime No.347/2024, registered with Ambad Police Station, for the offence punishable under Section 137 (2), 64, 351 (2) and 3 (5) of the B.N.S.

3] This Court, by order dated 28th September, 2024, has granted interim protection in favour of the applicant. Thereafter, this Court, by order dated 16.01.2025, has noted submission of the applicant at para no.1, as noted below :

1] The learned counsel for the applicant submits that on receiving call from the Police on 20th July, 2024, the applicant along with informant had visited the Jalna Police Station. He further submits that the allegations against the applicant are made in the supplementary statement made 4 days later and the said allegations were not made by the informant before the Ambad Police Station at the earlier point of time. He further submits that there was consensual marriage between the applicant and the informant. After intervention of the father of the informant, the informant lodged the FIR against the present applicant under Section 64 of the Bharatiya Nyaya Sanhita [Section 376 of IPC].

4] The learned counsel for the applicant submits that in the order dated 16.01.2025 in para no.1 line no.7, instead of 'Jalna Police Station', it should be 'Ambad Police Station'. He further submits that in terms of interim order, the applicant has co-operated with the investigation. He further submits that the charge sheet is filed in the matter.

5] The learned APP submits that the victim in her statement under Section 183 dated 24.07.2024 stated that she was given water at the house of Vikas and due to which, she had become unconscious and thereafter on next date, she was dropped in her house. Thereafter again the police statement of victim was recorded on 31.07.2024 wherein she narrated that the applicant has committed rape.

6] The learned counsel for the applicant submits that the victim, in her statement dated 21.07.2024, stated before the police that she is having love affair and she herself left the house and she don't have any complaint against anyone else. In her statement under Section 183, she has stated that Vikas Thete, brother of Akash, called her at his house and she was given water, and due to which, she had become unconscious. On next date, she had become consciousness in their house. Thereafter, all of them were present in the house, dropped her in her house. Again in the statement dated 28.07.2024, she stated that she along with Akash Thete and others have gone to Ch.Sambhajnagar and they stayed at Ch.Sambhajnagar in Hotel and she alleged that the applicant has committed rape on her.

7] The applicant has produced photographs before this Court in a sealed envelope. Perused the same. The first statement of the informant before the police was in favour of the applicant. Even the statement before the Magistrate, she has not stated anything as regards rape. The Statement of the victim before the Magistrate dated 24.07.2024 does not mention about offence of rape, so also, photographs shows consensual relations. In view of the same, the interim protection granted by order dated 20.09.2024 stands confirmed, in the following terms

i] The applicant shall attend the concerned police station as and when required by the investigating officer.

ii] 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.

iii] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

8] In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

9] 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.

10] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE