



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

11 ANTICIPATORY BAIL APPLICATION NO. 1640 OF 2024

MAHENDRA RAMESH SONPETHKAR
VERSUS
THE STATE OF MAHARASHTRA

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Mr. A. R. Kawade, Advocate for Applicant
Mrs. M. N. Ghanekar, APP for Respondent/State
Mr. Mohammad Amir Advocate for the victim (Appointed)

CORAM : R. M. JOSHI, J.

DATE : 6th JANUARY, 2025

PER COURT :-

1. Applicant apprehends arrest in connection with Crime No. 0758/2024 registered with M.I.D.C. Waluj Police Station, District Aurangabad for the offences punishable under Sections 376(2), 326, 504, 506 of the Indian Penal Code (for short 'IPC').

2. First informant claims that in the year 2009 she was working with K.C. Precision company and at that time accused was working as a Manager. She has claimed that she worked in the said company till 2012. It is allegation that in the year 2011 accused has established forcible physical relations with her. The report also discloses about dispute between them with regard to the payment of Rs. 75,000/- arising out of a policy taken in the year 2012. Informant also states that in the year 2017 she had filed proceeding for seeking divorce from her husband and

the said proceeding is pending. She also claims that accused has assured marrying her and due to the said assurances she established physical relations with him. There is further allegation that accused used to abuse and beat her. It is stated in the report that since the accused has lost his job, he started working in the company of the informant. An incident occurred in May, 2024 is reported to say that the accused has tried to make physical advances towards her. She resisted to the same and accused pushed her and as a result of which her *odhani* was stuck in to the machine. While removing said *odhani*, injury was caused resulting into the amputation of the fingers. So also, fracture to her hand. With these allegations, report came to be lodged.

3. Learned counsel for the applicant submits that there is delay in lodging of the report in respect of the alleged incident of November, 2011 wherein the accused is said to have established forcible physical relations with her. He drew attention of the Court to the writings reduced between the parties indicating that the injuries are caused to the informant while working on the machine. It is his submission that there is absolutely no material on record to indicate the commission of offence of rape or even an offence punishable under Section 326 of the IPC. Since investigation is over and charge-sheet is filed, he seeks confirmation of the interim anticipatory bail.

4. Learned APP and learned counsel for the informant opposed the application. It is the contention of the learned counsel for the informant that the accused has given false promises of marriage to the informant and since the marriage is not performed thereafter, it amounts to an offence punishable under Section 376 of IPC. It is also his submission that there is no proper investigation carried out as even there is no spot panchnama conducted of the place wherein the incident of May, 2024 had occurred. He also submits that the informant has challenged the so called writing arrived at between the parties.

5. As far as the allegation in respect of the offence of rape is concerned, there is delay in lodging of the report in respect of the incident allegedly occurred in November, 2011. The informant is married lady. As per her own statement in the first information report, there is no dissolution of her marriage. In such circumstances, this Court finds it difficult to accept that the accused had established physical relations with her on false promise of marriage. As far as incident of occurred in May, 2024 is concerned, first information report itself indicate that it could be a case of accident. Apart from this in the statement of witnesses, namely, Abdulla Kasam Shaikh and Appasaheb Tapase who were disclosed about the said incident immediately after its occurrence by the informant herself. Having regard to the first information report as well as

their statements, *prima facie* this Court finds substance in the contention of the learned counsel for the applicant that this could be a case of causing of accidental injuries to the informant.

6. As far as the grievance of the informant about improper conduct of investigation is concerned, it is open for the informant to take appropriate steps as per law, if she so desires. However, that cannot become a ground for refusing anticipatory bail to the applicant.

7. Applicant's liberty is already protected by granting interim relief on 30/09/2024. There is nothing on record to show that he has misused the liberty. Hence, application stands allowed in terms of interim order dated 30/09/2024.

8. Fees of the appointed counsel is quantified Rs. 6,000/- and it is to be paid by the High Court Legal Services Authority, Sub Committee, Aurangabad.

(R. M. JOSHI, J.)

ssp