



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

64 ANTICIPATORY BAIL APPLICATION NO. 1907 OF 2024
WITH
CRIMINAL APPLICATION NO. 194 OF 2025 IN ABA/1907/2024

VIJAYKUMAR PRABHURAO BIRADAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mr. Rajendrraa Deshmukh, Sr. Advocate a/w. Mrs.
Meenal S. Deshmukh i/b. Devang R. Deshmukh
APP for Respondents 1 & 2 : Mr. A.A.A. Khan
Advocate for assisting APP : Mr. M.L. Dharashive

...

CORAM : ARUN R. PEDNEKER, J.

Dated : February 03, 2025

PER COURT :-

1. The application filed for assisting APP is also allowed. Heard the learned counsel for the applicant, the learned APP for the respondents-State and Mr. M.L. Dharashiv, learned advocate assisting APP.
2. The applicant is apprehending arrest in connection with Crime No. 196/2023 dated 2.5.2023 registered with AUSA Police Station, District Latur for the offences punishable under sections 354-A, 504, 506 r/w. 34 of I.P.C.
3. This Court by order dated 29.10.2024 has granted interim protection to the applicant by noting facts and reasons in para 5 to 8, which is reproduced as under :-

"5. Initially, first information report was lodged on 02.05.2023 for the offences punishable under Sections 354-A, 504, 506 read with 34 of the Indian Penal Code, against applicant and another co-accused Dilip Shahaji Boine. Incident occurred on 04.01.2023 was narrated in the first information report. Thereafter, supplementary statement was recorded by the informant somewhere about in the month of April, 2024, castigating allegations of offence under Section 376 against co-accused. Thereafter, by

application dated 15.04.2024, Investigating Officer requested and sought permission from Chief Judicial Magistrate for adding offence under Section 376 of IPC.

6. Learned Senior Counsel Mr. Deshmukh appearing for the applicants submits that considering the sequence of events and the previous conduct of informant, the possibility of implicating the applicant in crime cannot be ruled out. No advert act has been attributed in the first information report as well as supplementary statement. It is, therefore, submitted that applicant deserves interim protection.

7. Learned APP opposes the submissions of the applicant. It is contended that serious allegations have been made against applicant as well as co-accused. Applicant was present in the car when the incident occurred on 04.01.2023. He would submit that custodial interrogation is required.

8. I have gone through the first information report as well as supplementary statement. Incident occurred on 04.01.2023. After considerable period, FIR was lodged on 02.05.2023 for the offences punishable under Sections 354-A, 504, 506 of IPC. Supplementary statement was recorded in April 2024 making allegations of offence under Section 376 of IPC. I am of the considered view that prima facie case is made out by the applicant to grant interim bail."

4. Perusal of the record indicates that on 4.1.2023, as there was a compromise between the parties and the present applicant has withdrawn his Criminal Application No. 2497/2022 and the informant has also withdrawn her Criminal Application No. 1334/2021. In the order, it is mentioned that applicant (present informant) in Criminal Application No. 1334/2021 was present in the Court on that day.

5. In view of the above, it appears that the incident of 4.1.2023 in the morning hours as noted in the F.I.R. is highly improbable as the informant in the F.I.R., who was present in the Court on that day, has not made

allegation for offences under section 376 of I.P.C. There was huge delay in lodging F.I.R. as the incident has taken place on 4.1.2023 and the F.I.R. was lodged on 2.5.2023 and thereafter supplementary statement of the informant was recorded after one year, wherein offence under section 376 of I.P.C. is alleged against the co-accused. In view of the above, the possibility of consensual relation and false implication of the applicant cannot be ruled out.

6. Mr. M.L.Dharashive, learned advocate assisting APP opposed the application by submitting that after grant of interim protection, pressure has been exerted on the informant by the applicant to withdraw the present case.

7. Considering the above submissions, I deem it appropriate to confirm the interim protection granted on 29.10.2024.

8. In view of the above, the application is allowed and the interim protection granted on 29.10.2024 is confirmed on the following terms :

i] The applicant shall attend the police station as and when required.

iii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not contact the informant, witnesses and other persons concerned with the case in any way.

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

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

10. 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.

11. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

ssc/