

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3363 OF 2024

Ashok Apparao Sawle	.. Applicant
Versus	
The State Of Maharashtra	.. Respondent

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- Mr. Kuldeep Patil a/w Mr. Sachin Hande and Ms. Poonam Pal, for Applicant.
- Mr. Dinesh J. Haldankar, APP for State.
- Mr. Niranjana Kandade, for Respondent No.2.
- Mr. Hemant Raut, API, KalaChowki Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 10, 2025

P.C.:

1. Heard Mr. Patil, learned Advocate for Applicant, Mr. Haldankar, learned APP for State and Mr. Kandade, learned Advocate for Respondent No.2.

2. This is an Application filed by Applicant for seeking enlargement on bail in connection with CR No. 377 of 2024 registered at Kalachowki Police Station for the offences punishable under Section 74 and 75 of Bhartiya Nyaya Sanhita, 2023 (for short "BNS").

3. Briefly stated facts are that the complainant and applicant were working as contractual employees in the Municipal Hospital / dispensary in Mumbai. Both of them being microbiologists were posted

and worked together in the Municipal Corporation Hospital / dispensary called Mumbai District TB Control Institute, Chinchpokli, Mumbai. Complainant was working in the dispensary since September, 2019. The contract of the applicant and complainant before the Court was required to be renewed every year by the Corporation.

4. FIR is filed on 27.11.2024. However, it is the Complainant's case that she has been suffering at the hands of the Applicant since August, 2022 when Applicant started passing sarcastic comments towards her and used to raise his hand and bring it near her face and even touch her. There is one more allegation that while traveling in the car to visit various laboratories and hospitals in Mumbai region when the Complainant's hair used to fly in the air, Applicant used to put his hand near her mouth and fix her hair without asking her and would also pass lewd comments about her dressing sense. All this is stated in the complaint by the Complainant as happening since September, 2022. According to complainant she also filed a complaint with her seniors / in-charge of the said institute where the complainant and applicant were working and they assured her that they will take action against him but did not take any action. If that be the case, the complainant would have taken action immediately rather than waiting until November, 2024. Be that as it may, it is the case of prosecution that some action was indeed taken against the applicant by issuing him a memo but thereafter complainant represented and now I am

informed that the committee has been formed to take appropriate action. It is the allegation of the complainant that because of the aforesaid incident / complaint she has also suffered in her work in the institute. Rather complainant has stated that she was tortured in her office, but if that be the case nothing prevented the complainant from immediately approaching and taking recourse to the law by filing an appropriate complaint. The specific date and events of the aforesaid incidents are not given or stated and it is seen that FIR is lodged on 27.11.2024 for outraging the modesty of the complainant.

5. Per contra, Mr. Haldankar, learned APP would submit that the applicant is an influential person and due to he and his family members being influential there is every likelihood that they would influence the witnesses who would be the colleagues of the parties and in that manner he would tamper with the evidence if he is granted anticipatory bail. He would fairly submit that he needs to cooperate with the Investigation and attend all dates of trial. On the issue as to why his custodial interrogation is required, he would submit that apprehension expressed above needs to be taken into account.

6. Learned Advocate appearing for the complainant is also heard. He would echo the submissions made by the Mr. Haldankar and would submit that due to influence of the applicant there is every likelihood that applicant will make witnesses hostile considering the complaint made against him. Learned advocate for the complainant

would submit that even though the superiors had knowledge about the complaint action against Applicant was delayed and no steps were taken by them that may not be the answer by the applicant to file the FIR for the first time on 27.11.2024.

7. The incidents which are stated by the complainant are *prima facie* if considered very serious. Nothing should have prevented or precluded the complainant for taking appropriate legal action at that time itself. The delay in filing the FIR itself militates against the complainant's case to the extent that today the complainant has insisted that even before trial the applicant should be arrested and he should face custodial interrogation in this matter.

8. Mr. Patil, learned advocate for the applicant informs the Court that the complainant has been subsequently transferred and he has been posted at GTB Hospital Mumbai and he is no longer working in the same place where the complainant is working. He would submit that he has been transferred in September, 2023, though record indicates that steps were taken by the Municipal Corporation on the directions of the Executive Officer of the Corporation. I need not go into its merits at this stage. Keeping all contentions of the parties absolutely open insofar as the complaint and the trial is concerned, the following order is passed:-

ORDER

- (i) In the event of the arrest, the Applicant be enlarged on bail

on furnishing P.R. Bond in the sum of Rs. 2,00,000/- (rupees two Lakhs only) with one or two sureties in the like amount;

(ii) Applicant shall attend on all dates of hearing unless specifically exempted by the Trial Court in writing by a speaking order;

(iii) Applicant shall report to the concerned I.O. in the Police Station on fourth Saturday of every month between 05.00 pm to 07.00 pm, and / or as and when called for by the I.O.;

(iv) Applicant shall not in any manner attempt to contact the Complainant by any electronic means, WhatsApp, Mobile Phone or any other method and attempt to influence and give any threat the Complainant. If applicant does so and there is any infraction of this direction, the present order shall stand immediately revoked and the same shall immediately stand cancelled;

(v) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time, as applicable;

(vi) The Applicant shall not misuse his liberty in any manner or to influence any witnesses in any way; and

(vi) Any infraction of the conditions shall entail cancellation of

bail granted to the Applicant.

- 9.** Anticipatory Bail Application is allowed and disposed of in the above terms.

P.R. Rajput

[MILIND N. JADHAV, J.]