

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2810 OF 2019  
WITH  
INTERIM APPLICATION NO.1 OF 2020

Nitin Ramdas @ Rambhau Kalhapure

Applicant

versus

The State of Maharashtra

Respondent

Mr.Satyavrat Joshi for applicant.

Mr.Ranjeet M. Pawar for intervenor.

Smt.A.A.Takalkar, APP, for State.

Mr.Praful Kadam, PSI, Ranjangaon MIDC Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 31<sup>st</sup> January 2020

PC :

1. The applicant is seeking anticipatory bail in CR No.276 of 2019 registered with Ranjangaon MIDC Police Station, Pune for offences under Sections 376, 376(2)(N), 323, 420, 504, 506 of Indian Penal Code. The FIR was lodged on 19<sup>th</sup> August 2019.

2. The case of prosecution is that the complainant is a lady aged about 26 years, who lodged the report with the police station, alleging that she got acquainted with the accused during the period from 21<sup>st</sup> May 2018 to 14<sup>th</sup> May 2019, the accused under the false promise of marriage, has committed forcible sexual intercourse with her against her will. The accused had promised to marry but later on avoided to marry her and was to perform marriage with another girl on 11<sup>th</sup> December 2019.

3. The applicant had preferred application for anticipatory bail before Sessions Court which has been rejected by order dated 5<sup>th</sup> December 2019.

4. The contention of the applicant is of total denial. According to the applicant, the entire case is false. The applicant has not committed the alleged act. Learned counsel for applicant submitted that the contention of the applicant is reflected in grounds D and E of this application wherein it is contended that the applicant never had physical relationship with the complainant and hence question of cheating does not arise. The complainant is trying to blackmail the applicant as his marriage was to be performed on 11<sup>th</sup> December 2019. There is delay in lodging the FIR. It is further contended that even before the Court of Sessions, the applicant has contended that it is a case of false implication. Learned counsel drew my attention to the averments made in the application for anticipatory bail preferred before the Sessions Court wherein it was contended that though the complainant and applicant were having friendship, the applicant was not having any illicit relationship with the complainant and applicant never promised the complainant of marriage. The applicant is innocent and not at all concerned with the present crime. The complainant has made false allegations against applicant. The applicant never had physical relationship with the complainant and question of cheating does not arise.

5. The applicant has filed affidavit dated 16<sup>th</sup> January 2020. In the said affidavit it is stated that on 16<sup>th</sup> September 2018 he was proceeding towards his home from Unit 16, RR, Jammu and Kashmir

and he reached his home on 18<sup>th</sup> September 2018. He has further stated that on 16<sup>th</sup> October 2018 he was proceeding towards Jammu and Kashmir for reporting in Unit-16, RR on 19<sup>th</sup> October 2018 from Ahmednagar by Jhelam Express. On 10<sup>th</sup> January 2019 and on 11<sup>th</sup> January 2019 the applicant was present in Unit-16, RR at Jammu and Kashmir on duty. On 30<sup>th</sup> January 2019 the applicant was present on duty at Unit 16, RR at Jammu and Kashmir. On 5<sup>th</sup> February 2019 and 7<sup>th</sup> February 2019 he was present on duty at Unit 16 RR at Jammu and Kashmir. On 13<sup>th</sup> May 2019 the applicant was proceeding towards Jammu and Kashmir for reporting in Unit-16 of RR on 15<sup>th</sup> May 2019 from Ahmednagar by Jhelam Express. It is stated that details of leave are available with his parent unit (10, Mechanised Infantry), which the investigating agency can verify. It is further stated that the entire record of his service including his attendance on duty would be easily available with Colonel Karan Chaddha, who is the Commending Officer of his regiment and Lieutenant Colonel Arjun Thorat who is the second in command of his regiment. There were no sexual relationship between him and complainant. He has been falsely implicated in this case. The extract of leave is annexed. The said document is not legible. It is stated that the aforesaid aspects are to be verified by the investigating agency.

6. Considering the submissions of learned counsel for applicant, it is apparent that the defence of the applicant is of total denial and he is claiming alibi.

7. Learned APP submitted that pursuant to the registration of the FIR investigation is in progress. During the course of investigation

CDR was collected and in view of tower location, the presence of the applicant is established at the place of incidents. The investigation is being carried out in the hotels where the accused had visited along with victim. The statements of witnesses were recorded. Aadhar Card was produced by the accused for disclosing his identity. The investigating agency has collected the photocopy of said Aadhar Card of the applicant. It is submitted that in one of the hotel which was boarded by the applicant-accused, his army identity card was produced, the photocopy of which is collected during the course of investigation. The statements of the managers of the hotels/lodges were recorded. It was also verified that there were register entries of checking in the lodging and boarding hotels. It is also submitted that for rest of the lodging hotels, the CDR record is matching.

8. Learned counsel for intervenor submitted that the contention of the applicant is false. The intervenor has relied upon the receipts of lodges/hotels which appear in the name of applicant and victim. He has also produced the lodging register which bears the names of applicant and the complainant with regards to their entry in the hotel.

9. I have perused the documents as well as investigation papers. There is prima facie evidence collected by the investigating agency showing involvement of applicant. According to the applicant, the case is completely false. There was no physical relationship between him and the complainant. He has denied all the allegations in FIR. The documents collected by the investigating agency, however, speaks otherwise and are contrary to the contentions of the applicant. The applicant has referred to some dates on which he was

at the places mentioned therein. The complainant refers to several dates alleging visit to hotels, physical relation ship. In the light of the documents, such as, Aadhar Card, Army identity card, registers of hotels and entries therein, signatures appearing in the said register, CDR and investigation conducted by Police, would prima facie indicate that the applicant is involved in the crime. In view of above, application deserves to be rejected.

10. Accordingly, Criminal Anticipatory Bail Application No.2810 of 2019 is rejected. It is made clear that the observations made in this order are prima facie for considering the application for anticipatory bail and the Trial Court shall not be influenced by the same at any other stage. Interim Application No.1 of 2020 is allowed and disposed of.

(PRAKASH D. NAIK, J.)

MST