

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

68 ANTICIPATORY BAIL APPLICATION NO. 1624 OF 2024

1. Paraji Kondiram Waghmode
2. Shankar s/o Kondiram Waghmode
3. Suman w/o Amrut Waghmode
4. Minakshhi w/o Houshabapu TamnarApplicants

VERSUS

The State of Maharashtra & anotherRespondents

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Mr. S. R. Andhale, Advocate for Applicants.
Mr. B. B. Bhise, APP for the State.
Mr. S. E. Shekade, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 14th OCTOBER, 2024.

PER COURT :

1. Learned counsel Mr. Shekade causes appearance on behalf of the informant and seeks leave to assist learned APP.
2. Having regard to the nature of offence, permission is granted.
3. Applicants apprehend arrest in connection with Crime No. 0559/2024, registered with Karjat Police Station, District

Ahmednagar, for the offences punishable under Sections 69, 138, 74, 76, 79, 115(2), 352, 351(2), 351(3) and 3(5) of the Bharatiya Nyaya Sanhita.

4. First informant is a lady who has made allegations that she had acquaintance with Applicant No. 1 in December 2017 through Facebook. In June 2018, they met when he proposed her. In September, 2018, he informed her that he is being selected as PSI and is going for training. He called her at Nasik near police training center and established relationship with her in a hotel on promise of marriage. It is stated in the report that in 2019, Applicant No. 1 had shown her photographs to the family members however, they refused to permit him to marry her. Informant had tried to commit suicide by consuming poisonous substance. After about 3 to 4 months, through a fake id, Applicant No. 1 started chatting with her. Thereafter, on promise of marriage, he had established physical relationship with her. There is also allegation of causing miscarriage on administering some pills. In respect of incident dated 31.08.2024, it is stated that when she asked Applicant No. 1 about marriage, he took her to his family. There are allegations against other Applicants and co-accused that she was forcibly taken in a vehicle. She was

abused and her modesty was outraged by co-accused Amrut. There is allegation against Applicant Nos. 3 and 4 that they snatched her mobile phone.

5. Learned counsel for Applicants submits that in the First Information Report, there is not a single statement which indicates that Applicant No. 1 has ever refused to marry informant. Thus it is his submission that there is no substance in the contention that he established physical relationship on false promise of marriage. It is his submission that as far as Applicant No. 2 is concerned, there is no overt act alleged against him in entire First Information Report. Applicant Nos. 3 and 4 are granted interim bail by this Court and that according to him, they had appeared before the Investigating Officer and cooperated in the investigation.

6. Learned APP opposed the application by drawing attention of the Court to the supplementary statement of the informant so also injury certificate. It is his submission that the offence is serious in nature and for the purpose of recovery, custodial interrogation of the Applicants is necessary.

7. Learned counsel for informant strenuously opposed the Application by contending that the offence is serious in nature and that Applicant No. 1 has not performed marriage with the informant though on such ground relationship is established with her for the period of about 5 years. According to him, this should be treated as refusal to marriage. Having regard to the incident dated 31.08.2024, it is his contention that the allegation in the First Information Report clearly indicate that Applicant Nos. 3 and 4 snatched her mobile phone and as such for the recovery of the same, their custody is necessary. Learned APP at this stage submitted that these Applicants have not cooperated in the investigation and recovery of mobile could not be done from them. Learned counsel for the informant has also submitted that infact this is a case wherein Applicant no. 1 has blackmailed the informant though no such allegations are found in the First Information Report or in the supplementary statement too.

8. Applicant No. 1 and informant are major. Except for the statement that he has established physical relation with her on false promise of marriage, there is no whisper in the First Information Report that infact Applicant No. 1 has ever refused to marry her. In

order to show that there is false promise of marriage, it is absolutely necessary that the victim claims that accused has refused to marry and therefore, said promise earlier given becomes false promise of marriage. In absence of any specific statement, this Court is unable to accept the contention of learned counsel for the informant. Similarly, so far as contention with regard to blackmailing of the informant is concerned, neither in the First Information Report nor in the supplementary statement of the informant or even from police papers, it reflect so.

9. Admittedly, there is no allegation in report that Applicant No. 1 in collusion with other accused committed any offence. In fact, it is stated therein that Applicant No. 1 was forced to get down from the car. Similarly, there are no allegations against Applicants herein of outraging modesty of informant. Co-accused against whom said allegation is made, is already arrested and now released on bail. As far as Applicant No. 2 is concerned, there is no allegation that she committed any overt act in the incident in question. Applicant Nos. 3 and 4 are ladies and their liberty was protected by granting interim relief by order dated 26.09.2024. Investigation papers indicate that they appeared before the investigating agency. This Court finds no

substance in the contention of learned APP that mobile phone which was allegedly snatched by them was not given to the investigating agency. It is for the investigating agency to carry out investigation for the purpose of recovery, if any. This Court, therefore, finds no reason to reject the application. Hence, the following order :-

ORDER

(i) Application qua Applicant No. 3 Suman w/o Amrut Waghmode is allowed in terms of interim order.

(ii) In the event of arrest of applicants Paraji Kondiram Waghmode, Shankar s/o Kondiram Waghmode and Minakshi Houshabapu Tamnar, in connection with Crime No. 0559/2024, registered with Karjat Police Station, District Ahmednagar, for the offences punishable under Sections 69, 138, 74, 76, 79, 115(2), 352, 351(2), 351(3) and 3(5) of the Bharatiya Nyaya Sanhita, they be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) each with one surety each in the like amount.

(iii) They shall attend the concerned police station once in a week.

(iv) They shall not contact the witnesses directly or indirectly.

(v) They shall not interfere with the evidence in any manner whatsoever.

(vi) They are further directed to cooperate the investigating agency for further investigation.

(vii) Learned APP to communicate this order to the concerned Investigating Officer.

(viii) These observations are prima facie observations and the trial Court need not get influenced by the same.

(R. M. JOSHI)
Judge

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