

Sameera Fatema W/O Gaulam Gaus Pathan ... vs The State Of Maharashtra Thr. Pso Ps ... on 3 May, 2024

2024:BHC-NAG:5325

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 240 OF 2024
Sameera Fatema w/o Gaulam Gaus Pathan and another V/s State of Maharashtra.
WITH
CRIMINAL APPLICATION (ABA) NO. 238 OF 2024
Mohsin Amin Ahemad s/o Khalil Ahemad and another V/s State of Maharashtra.

Office Notes, Office Memoranda of Court's or Judge's Order
Coram, appearances, Court's Orders
or directions and Registrar's order

Mr. Muzammil Hussain, counsel for the applicants. (ABA No.2
Mr. Saud Afsar, counsel for the applicants. (ABA No. 238/20
Mr. Shamsi Haider, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 03/05/2024.

1. By preferring these applications, the applicants are seeking pre-arrest bail, in connection with Crime No. 168/2024, registered with Police Station Gittikhadan, District Nagpur for the offence punishable under Sections 120(B), 294, 342, 389, 406, 420, 467, 471, 494, 504, 506, 502 of the Indian Penal Code, 1860, the applicants approached this Court for grant of pre-arrest bail.

2. Applicant No.1 is the wife of the informant and Applicant No.2 in Criminal Application (ABA) No. 240/2024 is the mother of Applicant No.1. Applicant Nos. 1 and 2 in Criminal Application (ABA) No. 238/2024 are the uncle and Aunt of Sameera Fatema i.e. the applicant No.1 in Criminal Application (ABA) No. 240/2024. As per the allegation by the informant in September-2022, applicant No.1 has sent the rkn 2 920aba240.2024+1.odt Facebook request to him, and he has accepted the said Facebook request. Thereafter, she called him repeatedly and also proposed to him. Applicant No.1 is a Divorcee Lady, and she impressed upon him that she wants to perform her re-marriage and thereafter, there was communication between them. It is further alleged that she called him in one hotel and there was a physical relationship between them, and she obtained the obscene photographs of the informant and thereafter blackmailed him.

3. It is further alleged that on 11/12/2022, the said applicant Sameera Fatema, came alongwith 8 to

10 relatives at his house and they all abused him and assaulted him by saying that he subjected Sameera Fatema for sexual assault, and thereafter, the amount of Rs. 50 Lakh was demanded from him. He has paid Rs. 10 Lakh, and subsequent to that also, though there was a settlement deed between them, he was blackmailed by the present applicants and therefore, he approached the Police Station and lodged the report.

4. Learned counsel for the applicant submitted that as far as the allegation of the informant is concerned, which is only to give a counterblast, the FIR lodged by applicant No.1. Applicant No.1 has filed the FIR against the present applicant and the present informant alleging that he had subjected her for sexual harassment as well as he entered into her house wrongly, restrained her and also assaulted her.

5. He further submitted that there was a compromise between the present applicant No.1 and the informant, and in rkn 3 920aba240.2024+1.odt spite of said compromise, applicant No.1 was harassed by the informant. Regarding the same, the complaint under the provision of the Domestic Violence Act is also filed by the applicant No.1. He submitted that considering the circumstances, under which the FIR is lodged is to be taken into consideration, as the applicant No.1 is lodged the report against the present applicant alleging the sexual assault and thereafter, the domestic violence at the hands of the present applicant, this false FIR is lodged. Her custodial interrogation is not required and prays for release on bail.

6. He further submitted that applicant No.1 is a pregnant lady, and applicant No.2 who is the mother, has no concern with the alleged offence. The learned counsel for the applicant in Criminal Application (ABA) No. 238/2024 submitted that the applicants therein are not at all concerned with the alleged offence, and merely because they are relatives of the said applicant No.1 - Sameera Fatema, they are implicated in the alleged offence.

7. Learned APP strongly opposed the said application on the ground that the modus operandi of applicant No.1 is to send a friend request to the persons and thereafter, by getting the acquaintance with them, she used to perform the marriage with the various persons and thereafter blackmailed them. She invited my attention towards various statements and submitted that it is the 7th Marriage of the applicant No.1 with the informant. During the investigation, the investigation officer has recorded the statements of Muddasar Momin, who rkn 4 920aba240.2024+1.odt has also narrated that, the present applicant No.1 got an acquaintance with him from the Shaadi.Com and thereafter, shared her mobile number with him. Thereafter, proposed him for marriage, performed the marriage with her, and thereafter, lodged the false report and obtained the money from him. Another statement recorded by the investigating agency is of Amanullha Khan, who has also narrated the similar story that present applicant has performed the marriage with him on 23/10/2022 and thereafter, had quarrelled with him and obtained the money from him.

8. The another statement of Nazmu Sakit Mohammad also narrates the similar story that the present applicant -1 performed marriage with her and thereafter, obtained the amount from her. She submitted that considering these statements, it reveals that applicant No.1 who is a teacher by profession, is in habit of got acquaintance with the various persons through the various websites,

and proposed them for marriage and subsequently files cases against them and grab the money from them. Considering the role of the applicant No.1 her bail application deserves to be rejected. She further submitted that as far as the other applicants are concerned, who are the relatives who are assisting her in the said transactions, therefore, applications deserve to be rejected.

9. Having heard learned counsel for the applicants and learned APP for the State, perused the investigation papers. From the investigation papers, it reveals that FIR is lodged with an allegation that he got acquaintance with the applicant rkn 5 920aba240.2024+1.odt No.1 therefore, applicant No.1 sent him of Facebook request, thereafter proposed her, performed marriage with her, and thereafter, filed the complaint against the domestic violence as well as the complaint alleging that he has assaulted her.

10. It is further alleged that thereafter, she enquired about his property and obtained the amount of Rs. 10 Lakhs from him. The investigation officer has collected the documents which show that the informant has paid the amount of Rs. 10 Lakhs to the applicant No.1. The photocopy of the cheque sufficiently shows that the amount was paid to the applicant No.1. During the investigation, the statements of various witnesses recorded from which, it reveals that modus operandi of the applicant No.1 is that she get acquaintance with various persons, from various websites proposed them for marriage. She performed the marriage with them and subsequently filed the criminal complaint against them and blackmailed them and grabbed the money from them. Thus, prima-facie material collected during the investigation that investigation officer shows that the applicant has grabbed the money from various persons by performing marriage with them and filing a false complaint against them. As far as the other applicants are concerned, there is no specific allegations against them that they either abetted her or instigated her, no specific role is attributed to them in the FIR or the investigation, in view of that, the application of the applicant No.2 in Criminal Bail Application No. 240/2024 and the applicants in Criminal Application (ABA) No. 238/2024 rkn 6 920aba240.2024+1.odt deserves to be considered. In view of that, I proceed to pass the following order:

a) The criminal application No. 240/2024 is partly allowed and criminal Application No. 238/2024 is allowed.

b) The applicant No.2 - Rehana Jamal wd/o Mukhtar Ahmad in Criminal Application (ABA) No. 240/2024 and applicant No.1 - Mohsin Amin Ahemad s/o Khalil Ahemad and applicant No.2 Nikhat Farzana w/o Mohsin Amin Ahemad in Criminal Application (ABA) No. 238/2024 are hereby released on anticipatory bail, in the event of their arrest in connection with Crime No. 168/2024, registered with Police Station Gittikhadan, District Nagpur for the offence punishable under Sections 120(B), 294, 389, 420, 342, 406, 467, 471, 494, 504, 506, 502 of the Indian Penal Code, 1860, on executing P.R. bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

c) The above applicants namely - Rehana Jamal wd/o Mukhtar Ahmad; Mohsin Amin Ahemad s/o Khalil Ahemad and Nikhat Farzana w/o Mohsin Amin Ahemad

shall attend the concerned Police Station once in a week on Sunday between 10.00 a.m to 01.00 p.m. and shall cooperate with the investigating agency.

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d) The prayer of the applicant - Sameera Fatema w/o Gaulam Gaus Pathan for grant of ad-interim anticipatory bail is hereby rejected.

e) The applicants- Rehana Jamal wd/o Mukhtar Ahmad; Mohsin Amin Ahemad s/o Khalil Ahemad and applicant No.2 Nikhat Farzana w/o Mohsin Amin Ahemad shall not induce, threat or promise any witnesses, who are acquainted with the facts of the present case.

The criminal applications are disposed of.

[URMILA JOSHI-PHALKE, J.] Signed by: Mr. R.K. NANDURKAR rkn Designation: PA To Honourable Judge Date: 06/05/2024 16:22:29