

Sanjay Nana More vs The State Of Maharashtra on 5 October, 2018

Author: V.K. Jadhav

Bench: V.K. Jadhav

1

ABA 1029.2018+1.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1029/2018

1. JIVAN VASANT JADHAV
2. RANGNATH DASHRATH JADHAV
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr Gaware Niteen V.
APP for Respondents: Mr. B V Virdhe
Mr S S Dixit Advocate Asstt to APP.

...

WITH
ABA/978/2018

SANJAY NANA MORE
VERSUS
THE STATE OF MAHARASHTRA.

...

Mr D D Pokharkar advocate for applicant.
Mr B V Virdhe APP for Respondent State.
Mr S S Dixit Advocate Asst to APP.

...

CORAM : V.K. JADHAV, J.
Dated: October 05, 2018

...

PER COURT :-

1. The applicants in Anticipatory Bail Application No.1029/2018 and in 978/2018 are seeking pre-arrest bail in connection with crime No.133 of 2018 registered with Ghargaon police station, Tq. Sangamner, District Ahmednagar, for the offences punishable under Sections 376, 34, 498-A, 323, 504, 506 of I.P.C. Their

aaa/-

::: Uploaded on - 05/10/2018

2

::: Downloaded on - 06/10/2018 02:21:29

ABA 1029.2018+1.odt

application bearing Cri M.A. No.156/2018, 158/2018 and 162/2018 respectively with similar prayer came to be rejected by the learned Additional Sessions Judge, Sangamner, by order dated 10.9.2018.

2. Learned counsel for the applicants in anticipatory bail application no.1029/2018 submits that applicant No.1 Jivan Vasant Jadhav is the husband of the informant and wife has initiated various proceedings such as under the provisions of the Protection of Women From Domestic Violence Act, 2005, under section 125 of the Criminal Procedure Code, 498-A of the Indian Penal Code and also filed an application under section 9 of the Hindu Marriage Act. Learned counsel submits that, on 10.8.2017 informant has withdrawn all those proceedings and it is also pertinent to note that in those proceedings, there is absolutely no reference to the incident as narrated and detailed in the present complaint. Learned counsel for the applicants submits that, the applicant no.2 - Rangnath Dashrath Jadhav herein is the cousin brother-in-law of the

aaa/-

::: Uploaded on - 05/10/2018

3

::: Downloaded on - 06/10/2018 02:21:29
ABA 1029.2018+1.odt

informant and another applicant Sanjay Nana More in ABA No. 978/2018 is the maternal father-in-law of the informant. Learned counsel submits that, there are reckless and baseless allegations in the complaint that the applicant no.2 Rangnath Dashrath Jadhav in ABA 1029/2018 and another applicant Sanjay Nana More in ABA No.978/2018 have committed rape on the informant on some different dates and the present applicant no.1 alongwith his mother facilitated said commission of crime and also prepared a Video clip of the said rape incident in his mobile. Learned counsel submits that, reference has been given specifically in the complaint about the incident dated 25.6.2017 and further the incident dated 26.6.2017 in respect of the rape allegations, however, complaint came to be lodged after an inordinate delay of one year and two months i.e. on 18.8.2018 without explaining the delay. Learned counsel submits that, informant was suspecting that present applicant no.1 has some illicit sexual relations with one Varsha Kale and also performed Gandharva Marriage with her. It is also alleged in the complaint

aaa/-

::: Uploaded on - 05/10/2018

4

::: Downloaded on - 06/10/2018 02:21:29

ABA 1029.2018+1.odt

without any basis that mother of the applicant no.1 is indulged in prostitution business. Learned counsel submits that, antecedents of the applicants are clear. In the given set of allegations, their custodial interrogation is not at all required. They are ready to cooperate the investigating agency and for that purpose ready to abide any condition, if imposed by this Court. Learned counsel for the applicant in ABA No.1029/2018 submits that applicant no.1-Jivan Vasant Jadhav is at present in military service in Arunachal Pradesh.

3. Learned A.P.P., assisted by Adv. Mr. Dixit, has strongly resisted the application on the ground that, there are severe allegations made against the present applicants. Statement of the informant was recorded under section 164 of the Cr.P.C. by the learned Magistrate. Even, the statement of the informant was also recorded by 'Dilasa Cell' in the office of the Superintendent of Police, wherein the informant has specifically stated that she withdrew all those proceedings under the fear that applicant no.1/her

aaa/-

::: Uploaded on - 05/10/2018

5

::: Downloaded on - 06/10/2018 02:21:29

ABA 1029.2018+1.odt

husband may use the said video clip of commission of rape publicly and, as such, delay has been occurred in filing the complaint. Learned APP submits that, applicant no.2 Rangnath Jadhav in application no.1029/2018 and applicant Sanjay More in application No.978/2018 have committed forcible intercourse with her against her wish and the present applicant no.1 alongwith his mother has facilitated the said commission of crime. Furthermore, present applicant no.1 has prepared video recording of the said commission of rape in his mobile and, thus, his custodial interrogation is required for collecting all the details and also the video recording which is presently in his mobile hand set.

4. On careful perusal of the investigation papers and after going through the allegations made in the complaint, it appears that, there is an inordinate delay of one year and two months in lodging the complaint though the incident of rape alleged to have been taken place on 25.6.2017 and 28.6.2017. It further appears

aaa/-

::: Uploaded on - 05/10/2018

6

::: Downloaded on - 06/10/2018 02:21:29

ABA 1029.2018+1.odt

that, informant withdrawn all the pending proceedings filed under the provisions of the Protection of Women from Domestic Violence Act, 2005, under section 125 of Criminal Procedure Code, u/s 498-A of IPC and section 9 of Hindu Marriage Act, unconditionally, and further there is no whisper at all in those proceedings about the alleged commission of rape with her. Even, there is no reference to the video recording in the said proceedings. Furthermore, the applicant no.2 Rangnath Jadhav is the cousin brother-in-law of the informant and applicant Sanjay More is the maternal father-in-law. After considering the sequence of the incident as alleged in the FIR and, further considering the nature of the allegations and entire aspect of the case, I am inclined to grant pre-arrest bail to applicants in both these applications. Hence the following order:-

O R D E R

I. Anticipatory Bail Application No.1029 of 2018 is hereby allowed.

II. In the event of arrest of applicant no.1 Jivan Vasant Jadhav and 2- Rangnath Dashrath Jadhav in connection with crime No.133 of 2018 registered aaa/-

7 ABA 1029.2018+1.odt with Ghargaon police station, Tq. Sangamner, District Ahmednagar, for the offences punishable under Sections 376, 34, 498-A, 323, 504, 506 of I.P.C., they be released on bail on furnishing personal bond of Rs.15,000/- (Rs. Fifteen Thousand) each, with one surety of the like amount by each of them, on the following conditions:-

- a) The applicants shall not tamper with the prosecution evidence in any manner.
- b) The applicants except applicant no.1- Jivan Vasant Jadhav shall attend the concerned police station twice in a week i.e. on every Monday and Saturday between 08.00 am to 11.00 am till filing of the charge sheet.

III. Interim order dated 29.9.2018 passed in ABA No.978/2018 stands confirmed with the same terms and conditions with the modification that the applicant Sanjay Nana More shall attend the concerned police station twice in a week i.e. on every Monday and Saturday between 08.00 to 11.00 am till filing of the charge sheet.

III. Both Applications are accordingly disposed off.

(V. K. JADHAV, J.) aaa/-