MHCC050023362023

IN THE COURT OF SESSIONS AT DINDOSHI,
BORIVALI DIVISION, GOREGAON, MUMBAI.

ANTICIPATORY BAIL APPLICATION NO.727 OF 2023
IN
C.R.NO.281 OF 2023

Hemant Kumar Chandraprakash Mishra,
Age : 30 years, adult, Indian Inhabitant,
Residing at : Hanuman Chowk, Near
Shivaji Vidyalaya, Kajupada Pipe Line,
Kurla West, Mumbai, Maharashtra-400 072. **...Applicant/Accused.**

V e r s u s

The State of Maharashtra,
M.I.D.C Police Station. **...Respondent.**

Shri Punit Shukla, Advocate for the Applicant/accused.
Miss Neha Patil, Advocate for the Intervener.
Shri I.K. Shaikh, A.P.P for the State.

CORAM : A. Z. KHAN,
Additional Sessions Judge,
Borivali Division, Dindoshi, Mumbai.
(C.R.NO.13)
Date : 31st May, 2023.

O R D E R

1. The present application is filed by the applicant/accused

for the Anticipatory Bail. Perused the application and say thereon vide Exhs.8 & 9. Heard the learned advocate Shri Punit Shukla for the applicant/accused, the learned advocate Miss Neha Patil for the intervener & the learned A.P.P Shri I. K. Shaikh for the State. I have gone through the case papers, say of the police and the documents. It is seen that the present applicant/accused alongwith the other accused alleged to have been committed the offences punishable u/s 354, 354-A, 354-D & 509 r/w 34 wherein the offence is registered in M.I.D.C Police Station, Mumbai vide C.R No.281 of 2023.

2. It is pertinent to note here that the report lodged by the complainant/victim Dt.24.04.2023 alongwith the statements of the witnesses and the documents filed by the parties on record etc clearly shows that the complainant is serving as a 'Front Office Executive' in Star wing Real Estate Company situated at 501, Katiyali Business Center, Mahakali Caves Road, MIDC, Andheri (East), Mumbai and the present applicant/accused is Sales Manager in the said company. However, the present applicant/accused alongwith the other accused Surya Pratap Singh who is Assistant Manager outraged the modesty of the complainant and uttered the filthy language मॅडम आपने खुदको बहुत मे मेन्टेन रखा है, आपका फिगर बहोत अच्छा है, क्या मॅम मेरे साथ बाहर जाने के बारे मैं कुछ सोचा की नही ? etc since 01.03.2023 to 14.04.2023 whereby she made the complaint to her company and also lodged the report in which police investigated the matter and recorded the statements of the witnesses.

3. Obviously, the complainant is serving as a 'Front Office Executive' in Star wing Real Estate Company situated at 501, Katiyali

Business Center, Mahakali Caves Road, MIDC, Andheri (East), Mumbai and the present applicant/accused is Sales Manager in the said company but the present applicant/accused alongwith the other accused Surya Pratap Singh who is Assistant Manager outraged the modesty of the complainant and uttered the filthy language मॅडम आपने खुदको बहुत मेन्टेन रखा है, आपका फिगर बहोत अच्छा है, क्या मॅम मेरे साथ बाहर जाने के बारे मैं कुछ सोचा की नही ? etc since 01.03.2023 to 14.04.2023.

4. No doubt, the offence is serious and against the woman wherein the present applicant/accused alongwith the other accused alleged to have been outraged the modesty and uttered such filthy language towards the complainant but the father of the present applicant/accused tried to pressurize the complainant and employers. There are several aspects involved in the present case whereby the custodial interrogation of the present applicant/accused is indeed essential otherwise the right to interrogate the present applicant/-accused by the investigation Officer would be taken away which would certainly affect the case of the prosecution & ultimately the case of the complainant on merit.

5. However, the facts of the case cited by the learned advocate for the applicant/accused bearing ***Bail Application No.3674 of 2022 between Faheem Ahmed Vs State decided on 10.05.2023*** and the facts of the case in hand are entirely different & thus the principles & ratio laid down by Their Hon'ble Lordships do not assist to the case of the applicant/accused with due respect.

6. In contra, the facts of the case cited by the learned APP for the State bearing ***Criminal Appeal No.1834 of 2022 @ Petition for Special Leave to Appeal (Crl). No.7188/2022*** and the facts of the case in hand are similar in nature & thus the principles & ratio laid down by Their Hon'ble Lordships are reasonably applicable to the case in hand with due respect more particularly when there is prima facie case against the present applicant/accused.

7. In such circumstances, I am of the view that this is not the fit case in which the applicant/accused can be released on anticipatory bail u/s 438 of The Cr.P.C & thus I proceed to pass the following order.

O R D E R

The application is hereby rejected.

DISTRICT COURTS MAHARASHTRA

Digitally signed by AQEEL ZAMIR KHAN
Date: 2023.05.31 16:03:16 +0530

(A. Z. Khan)
Additional Session Judge,
Borivali Div, Dindoshi,
Mumbai.

Date :- 31.05.2023.

Dictated on **: 31.05.2023.**
Transcribed on **: 31.05.2023.**
Checked and Signed on **: 31.05.2023.**

"CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER." **31.05.2023 at 04.12 P.M.** **UPLOAD DATE AND TIME**	**Ashok S. Sugdare** **NAME OF STENOGRAPHER**
Name of the Judge (With Court room no.)	**SHRI. A. Z. KHAN** **(**C.R. NO.13)
Date of Pronouncement of JUDGMENT/ ORDER	**31.05.2023**
JUDGMENT/ORDER signed by P.O. on	**31.05.2023**
JUDGMENT/ORDER uploaded on	**31.05.2023**