

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION (ST) NO.2748 OF 2020**

Raviraj Bhagwatiprasad Gupta .... Applicant

versus

State of Maharashtra .... Respondent

.....

Dr. Abhinav Chandrachud i/b. Prem Kumar R. Pandey a/w. Samina Bharmal Advocate for Applicant.

Mr. Amit A. Palkar, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.**  
**DATE : 09<sup>th</sup> OCTOBER, 2020**

**P.C. :**

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 287 of 2020 registered with Santacruz Police Station, under section 354 of the Indian Penal Code.

2. Heard Dr. Abhinav Chandrachud, learned counsel for the applicant and Shri. Amit Palkar, learned APP for the State.

3. The FIR is lodged by the victim herself on 26/09/2020. She has stated in her FIR that, she had joined M/s. R. R. Associates since 18/09/2020. They had their office at Santacruz. She was

employed as an Office Assistant. On 25/09/2020, as usual, she attended her duty at 7.30a.m. The applicant came to the office at 11.30a.m. He went out for some time. He returned at 2.00p.m. He started discussing some work with the informant. While she was sitting on a chair, the applicant touched her inappropriately. The informant moved away. The applicant again came near her and again touched her inappropriately. The informant got scared. Thus, according to the informant, her modesty was outraged. She immediately told the applicant that she did not approve of his behaviour. At that time, the applicant accepted what she told him. After that, for two hours the applicant did not speak to her. After two hours he tried to tell the informant that in their profession all that was acceptable and that, if she cooperated, he would raise her salary. At that time, the informant told the applicant that, she did not want to continue with her job. In the evening, at 7.00p.m., she went home. She told about the incident to her mother. They decided to lodge FIR and on the next day, the FIR, on these allegations is lodged.

4. Dr. Chandrachud, learned counsel for the Applicant

submitted that the allegations at the highest may show the offence U/s.354-A of IPC which is a bailable offence, but offence U/s.354 of IPC is not made out. The essential ingredients of section 354 of IPC are lacking. According to Dr. Chandrachud, the applicant cannot be denied bail in this offence, but the applicant has apprehension of being arrested and, therefore, he deserves protection of anticipatory bail. He submitted that the allegations in the FIR are false.

5. Learned APP could not show how essential ingredients of section 354 of IPC were reflected in the allegations, though, outraging of modesty was sufficiently established by the allegations. The learned APP could not show how force was involved in the entire episode. However, he submitted that the applicant had given false address in the cause title of the application and that he had not cooperated with the investigation at all.

6. I have considered these submissions. Section 354 of the IPC reads thus:

**“354. Assault or criminal force to woman with**

**intent to outrage her modesty.** - Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine.”

7. The essential ingredients of this section are; using criminal force or assault. Section 349 of the IPC defines ‘Force’. Section 350 of the IPC defines ‘Criminal Force’ and section 351 of the IPC defines ‘Assault’. All these definitions are interlinked. In the peculiar facts of the case, it is doubtful as to whether these ingredients were present when the offence took place. However, observing anything in this behalf would be premature. This will have to be decided during a full-fledged trial. Today I am only considering whether custodial interrogation of the applicant is necessary and, therefore, whether anticipatory bail should be granted to him.

8. Undoubtedly, if the incident has taken place, the

accused deserves proper sentencing in accordance with law. This can be done only at the end of trial after parties have examined and cross-examined each other. The incident had occurred in the office. The FIR does not mention if it had taken place in presence of somebody. In this offence it is always difficult to find corroboration because, this offence normally takes place in privacy.

9. In the peculiar facts of the case, it appears that, at the first instance, the applicant touched the informant inappropriately at around 2.00p.m. The informant did not immediately leave the office or did not express her grievance to anyone else. This is understandable. However, significantly, the applicant did not use any force to prevent the informant from going out or he did not restrict her movement. After two hours he made an indecent proposal. It was rejected immediately by the first informant. Even thereafter she continued working in the office till about 7.00p.m. and then she went home. On the next day she lodged her FIR. In such cases, delay of a day in lodging the FIR does not make real difference. But the fact remains that till 7.00p.m. the applicant had not assaulted her, had not used criminal force on her or he had not

threatened her. Thus, though the offence would definitely fall U/s.354-A of the IPC. it is slightly doubtful as to whether it would fall U/s.354 of the IPC. But as mentioned earlier, this will have to be decided at the time of trial. At this stage, these allegations and the defence hang in balance for deciding the question whether section 354 of IPC is made out or not. It is the case which has to be decided on the basis of her version against the defence of the accused. The custodial interrogation of the applicant, in this particular case, will not yield any further evidence corroborating the allegations. The case is solely dependent on the version of the victim. If ultimately it is proved that the allegations are false, then the applicant will suffer irreparable loss if he is arrested.

10. Taking all these facts into consideration, without making any observations on the probability of the case and applicability of section 354 of the IPC, in the facts and circumstances of the case, today I am granting anticipatory bail to the present applicant. It is made clear that the first informant's case shall not be prejudiced by this order when the matter comes up for trial. The trial court shall decide this case on its own merits

without being influenced by this order or observations made in this order. This order is passed in peculiar facts of this case and should not be treated as precedent.

11. Hence, the following order :

### **ORDER**

- (i) In the event of his arrest in connection with C.R.No. 287 of 2020 registered with Santacruz Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall give his correct residential address to the investigating officer.
- (iii) Application stands disposed of accordingly.

**(SARANG V. KOTWAL, J.)**