

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3549 OF 2015

Somnath s/o Arjunrao Galphade

.... APPLICANT

V E R S U S

The State of Maharashtra

.... RESPONDENT

.....

Mr. Rajendra S.Deshmukh, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

.....

CORAM : V.M.DESHPANDE, J.

DATE : 15th JULY, 2015

.....

PER COURT :

1. This is an application for grant of anticipatory bail since the applicant is apprehending his arrest in connection with Crime No. 324/2015 registered with Kranti Chowk police station, Aurangabad, District Aurangabad for the offences punishable u/s 376,506 of the Indian Penal Code and u/s 67-A of the Information Technology Act, 2000.

2. Heard Mr. Rajendra S.Deshmukh, learned counsel for the applicant and Mr. A.S.Shinde, learned A.P.P. for respondent – State.

3. F.I.R. is lodged by prosecutrix herself. Prosecutrix is major. According to the submissions made by the learned

counsel for the applicant that the present applicant and prosecutrix were having thick and deep love affair, which was also admitted by the prosecutrix. He has also invited my attention on various photographs showing the prosecutrix in the company of the present applicant. He has also invited my attention to various text messages in between prosecutrix and the applicant to show that the prosecutrix was in love with the present applicant and subsequently their relations had sored. He, therefore, submitted that the applicant, who is a college going student, be protected from the custodial presence.

4. F.I.R. dated 19/06/2015 shows that the present applicant has took out video recording of the sexual intercourse between the present applicant and the prosecutrix. Prosecutrix has very specifically given the number and the make of the said mobile phone through which the video shooting of the prosecutrix in her awkward position is taken. It is also stated in the F.I.R. that after 2-3 days, present applicant has extended threat to the prosecutrix by saying that he is having video shooting of the incident and if she does not give the consent for the further sexual intercourse, said will be put on the Internet. F.I.R. further states that after 2-3 months at Mhaismal, prosecutrix was ravished physically against her will. It is further stated in the F.I.R. that on 17/06/2015, again she was taken to hotel from her hostel without the consent from the prosecutrix and again she was sexually exploited.

5. According to the learned counsel for the

applicant, there is delay in filing F.I.R. Prosecution is at liberty to explain the delay properly and adequately at the appropriate stage. Last incident is dated 17/06/2015, whereas F.I.R. is lodged on 19/06/2015. It is not expected from a girl, who is sexually exploited, to lodge the report immediately with the police.

6. It is not the application for regular bail. This is an application for anticipatory bail. The parameters for the consideration of regular bail and the parameters for the consideration of anticipatory bail are different. In that view of the matter, custody of the applicant is necessary for seizure of mobile phone and also video shooting which he has taken. In that view of the matter, no case is made out for grant of anticipatory bail.

7. Hence, present Criminal Application is rejected.

[V.M.DESHPANDE, J.]