

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 116 OF 2015

Mr. Sandeep Ramchandra Mane	...	Applicant
vs.		
The State of Maharashtra	...	Respondents

Mr.Rajendra Sonawane, Advocate for the applicant
Mrs. P.P.Shinde, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 27th January, 2015.

P.C.

Heard. This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No.80 of 2014 registered at Mahad MIDC Police Station for the offences punishable under Sections 376, 394, 365, 343 and 506 of Indian Penal Code.

2. It is the case of the prosecution that on 18.12.2014, one Dipak Sakpal had lodged a missing report at Mahad MIDC Police Station alleging therein that his wife is missing since 16.12.2014. On 20.12.2014, his wife was found at Village Bhave. She was given in the custody of her husband. On 20.12.2014, Police Inspector of Mahad MIDC Police Station recorded the statement of the

missing woman. She had disclosed to the police that she is married to Dipak Sakpal 9 years ago. Her husband is working as porter at Mumbai and that he visits the village intermittently. She has further disclosed that she was acquainted with the present applicant and that they had intimacy since one year. He used to speak with her on her cellphone. On 13.12.2014, the applicant is alleged to have told her that she should elope with him. Accordingly, on 16.12.2014, the applicant informed her to be ready and that he would pick her up at about 9.00 a.m. She had taken clothes for washing and left the house on the pretext of washing clothes. Thereafter, she accompanied the applicant voluntarily. They had lived in a lodge. Thereafter, they stayed together on 16th and 17th December, 2014. During that period he had requested her to give her ornaments and that she had voluntarily given him her golden mangalsutra. Her brothers Nileschand Rupesh along with her husband had met her and they had come to the police station and accordingly her statement was recorded.

3. On 31.12.2014, she lodged a report at the police station alleging therein that on 16.12.2014, she was proceeding towards forest for collecting firewood. The present applicant had induced her to live with him. He had taken her to a house. He had locked her in that house on 16th and 17th December, 2014. On 17th December, 2014, he had ravished her against her wish. That he had given

her some cigarette burns on her person. That he had taken away her golden ornaments and cellphone. On the basis of her statement, offence was registered. On 1.1.2015, the victim was referred for medical examination. The Medical Officer has specifically opined that “there is no evidence of forcible penetrative sexual intercourse, whereas penetrative intercourse with her consent in the past cannot be ruled out”. There is no external injuries over other parts of the body. Old abrasion (scar) seen. All this would prima facie show that her allegations levelled in the FIR are not suspected. The statement which is recorded on 20.12.2014 needs to be taken into consideration.

4. Upon perusal of the papers of investigation, more particularly the statement of the prosecutrix dated 2.12.2014, the statement of her husband dated 20.12.2014 stating therein that he has no grievance against anybody much less the present applicant and the injury certificate, this Court is of the opinion that the applicant has made out a prima facie case for grant of pre-arrest bail.

5. The observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

(i) The application is allowed. In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

(ii) The applicant shall not reside in the said Village Nigade till the filing of the charge-sheet.

(iii) The applicant shall report to the concerned police station on three consecutive Sundays commencing from 1.2.2015 between 10 a.m. to 12 noon.

Application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)