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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.384 OF 2015

Samar Sadashiv Bhoir	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.R.D.Suryawanshi, for the Applicant.

Mr.S.H.Yadav, APP for the Respondent – State.

API – Gaikwad, Manpada Police Station.

CORAM : REVATI MOHITE DERE, J.

DATED : 17th MARCH, 2015.

PC.

1. Heard learned counsel for the applicant and the learned APP for the Respondent – State.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. no.I-42 of 2015 registered with the Manpada Police Station, Mumbai, for the alleged offences punishable under Sections 376, 417 of the Indian Penal Code.

3. The complainant is an adult aged 23 years. According to the complainant some time in January 2014, the complainant has stated that one of her friend Vishwas Sawant had brought her to the applicant as the complainant wanted to be introduced to a Doctor for getting her abortion done. The applicant accordingly introduced the complainant to a Doctor. Accordingly, the complainant's abortion was performed on 6th January, 2014.

4. Learned Counsel for the applicant submitted that on 28th February, 2014 the complainant lodged an FIR as against her friend Vishwas alleging an offence punishable under Section 376, 313, 420 of the Indian Penal Code. Pursuant to the said FIR, Vishwas was arrested. In the said case, the applicant has been cited as a witness.

5. According to the complainant, the applicant and the complainant started meeting each other from January, 2014 and their friendship developed into a love affair and there were sexual relations between the two. It is alleged that in April 2014, the complainant became pregnant, pursuant to which the applicant kept the complainant in a rented premises. Thereafter on 31st December, 2014, the complainant delivered a

female child. It is alleged by the complainant that when she informed the applicant about the same, he did not say anything. Accordingly, she lodged a complaint with the police on 9th January, 2015, which was registered as an FIR only on 26th January, 2015. In the said complaint she had alleged that the applicant despite being married with two children continued his friendship with the complainant and promised to marry her and accordingly on the assurance of marriage had sexual relations with the complainant, pursuant to which a child was born. She has thus alleged that the applicant had cheated her by promising her marriage.

6. Learned APP opposed the bail application. He submitted that the applicant has not co-operated with the investigation and his DNA test is required to be done. Learned Counsel for the Applicant submits that the applicant is ready to undergo the DNA test, as and when directed by the police.

7. In view of the said statement made by learned counsel for the applicant and considering the peculiar facts of the case, the applicant deserves to be granted pre-arrest bail on the following terms and conditions :

ORDER

- i) In the event of the arrest, the Applicant be enlarged on bail on furnishing PR. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount ;
- ii) The Applicant shall attend the Manpada Police Station, Mumbai, on every Sunday between 11.00 a.m to 12.00 noon, till the filing of the charge-sheet;
- iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case ;
- iv) The Applicant shall co-operate with the Investigating Agency in getting the DNA test done ;
- v) It is made clear that if there is breach of any of the conditions as stated above, the prosecution shall be at liberty to seek cancellation of Applicant's anticipatory bail.

8. The Application is allowed and disposed of in above terms.
9. Needless to observe that the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order.
10. Parties to act upon the authenticated copy of this order.

(REVATI MOHITE DERE, J.)