

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

ANTICIPATORY BAIL APPLICATION NO.518 OF 2015

Mithilesh Milind Bhosale. ...Applicant.
vs.
The State of Maharashtra and ors. ...Respondents.

Ms. Namrata Rane for the Applicant.
Ms.P P. Shinde, APP for the State.
Ms. Priyanka G. Khayatmal,PSI Navghar Police Station present.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 14 JULY 2015

PC:

Heard.

2) This is an application under Section-438 of the Cr.P.C. The applicant is apprehending his arrest in Crime No.52/2015 registered by Navghar Police Station for offences punishable under Sections- 377,323, 506(2) and 504 of the I.P.C.

3) It is the case of the prosecution that on 8.3.2015 the wife of the present applicant lodged a report at the police station contending therein that she was in love with the present applicant. Both of them informed their respective families about their intention to get married. The father of the applicant had not consented for the marriage. The applicant had also refused to

marry her on the ground that his father had not given permission however, subsequently in order to restrain the complainant from lodging any report against him, his family had consented to the marriage and with the consent of both the families the applicant had got married to the complainant on 10.11.2014. She has specifically stated in the FIR that on the very next day of the marriage she had withdrawn herself from the matrimonial home and was residing with her parents at Mulund. It is further alleged that on 23.12.2014 they had been to Goa. At that time although she was passing through her menses, the applicant had insisted upon and had sexual intercourse with her. That, he was performing sex with brutality. It is also alleged that the applicant was coercing her to have oral sex and also had unnatural sex. The registration of the present offence is the out come of the matrimonial dispute. This court had referred the parties for mediation. The Mediator has filed report that mediation between the parties has failed.

4) Learned counsel for the applicant has placed on record photographs of the applicant with the complainant dated 24.12.2014, 25.12.2014, 26.12.2014 and 27.12.2014 which will show that couple was happy in the company of the each other. It does not appear that there was any coercion or pressure on the complainant. Prior to filing the present report the complainant has filed the proceedings against the applicant and his family members

under the provisions of the Protection of Woman from Domestic Violence Act, 2005. In the said proceedings she has filed injury certificates dated 7.9.2014 and 29.10.2014., All these would show that these were incidents before the marriage, since she got married with the applicant on 10.11.2014. It is clear that she was residing with her parents from the very next day of the marriage and therefore, there was no violence in the matrimonial house. As far as allegations in respect of Section 377 are concerned she has stated that the said acts were committed during the period 24.12.2014 to 30.1.2015. The FIR is lodged on 8.3.2015. The complainant has also filed proceedings under Section 498A of I.P.C. against the parents of the present applicant. The domestic violence proceedings are pending. It is true that the allegations pertain to personal relations between two individuals who had got married. It is a love marriage. The custodial interrogation in the present case would not be imperative. It is made clear that the observations made herein are restricted to decide the application under Section 438 of the Cr.P.C. and shall not be considered for the purpose of quashing of FIR, Discharge Application or at the time of trial.

ORDER

a) In the event of arrest, by way of ad interim relief, the applicant be enlarged on his furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

- b) The applicant shall report to the concerned police station as and when called for.
- c) The applicant shall not make any attempt to contact the complainant or tamper with the prosecution evidence.
- d) Application is allowed and disposed of.

(SMT. SADHANA S. JADHAV, J.)