

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 944 OF 2015

Shri Anurag Arvind Sharma	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Manoj Bhatt, Advocate, for the applicant.
Ms. P.P. Shinde, APP, for the State

CORAM: SMT. SADHANA S. JADHAV, J.
DATE : 29th July, 2015.

P.C.

Heard. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No.171 of 2015 registered at Bangurnagar Police Station, Malad, Mumbai, on 13.5.2015 for the offence punishable under Sections 376 and 420 of Indian Penal Code.

2. It is the case of the prosecution that on 13.5.2015, the complainant lodged a report at the police station that her father had expired in the year 2009. Her mother had got re-married. Her younger sister was staying with her mother. She was in search of a job. In 2012, she had

discontinued her education. She got a job in a B.P.O. At Malad. Thereafter, she was working in another B.P.O. in the same area. She had stayed with her paternal uncle. She had requested her friend Deepali to search accommodation for her. Her friend had requested her to stay with her friend Viren who was residing with four other male friends, one of them being the present applicant. They had got acquainted with each other. Their acquaintance had sublimated into love. They had consensual sexual intercourse. At one stage, she had conceived pregnancy. However, at the request of the present applicant, she had undergone medical termination of pregnancy. Thereafter, there were quarrels between them over trifling issues. She was all the time apprehensive that if she had not obliged him, whenever he solicited sexual favours, he would abandon her and therefore, she obliged him. That she had followed him to Vadodara and at Nizamuddin. It is alleged that the applicant was of the opinion that the complainant is going through psychosis and had therefore taken her to a Psychiatrist and Neurologist. It is alleged that after 30.4.2015, the applicant had avoided to meet her. She felt cheated. She went and disclosed to her maternal uncle and aunt about the trauma which she had undergone when she was in relationship with the present applicant. In the intervening period, when she was going to the Railway Station along with the applicant

in an autorickshaw, she had felt giddiness. When she regained consciousness, she found herself in Shatabdi Hospital. Upon enquiry, the applicant had informed her that she had met with an accident. It appears that the applicant was also injured in the said accident. After the said accident, her phase of psychosis had become more prominent and frequent. Since 14th April, 2015, he had finally abandoned her. According to the complainant, right from the beginning i.e. since September 2014, the applicant had assured to marry her and therefore she had consented to having sexual intercourse. However, she felt cheated and was constrained to lodge a report.

3. Perused the statement of the complainant recorded under Section 164 of Cr.P.C. It is inconsonance with the first information report. It appears that the applicant had rather taken her to Neurologist and Psychiatrist. She felt let down because of her medical termination of pregnancy which she had to undergo. In the statement under Sec.164 of Cr.P.C. she has stated that she had borrowed Rs.50,000/- on interest to lend it to the present applicant and she continues to pay interest till today. However, this is a matter of evidence.

4. Taking into consideration the recitals of the FIR and the submissions advanced across the bar, this Court is of the opinion that there was consensual sex between the applicant and the complainant. The applicant deserves pre-arrest bail.

ORDER

(i) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(ii) The applicant shall report to the concerned police station from 3rd August to 7th August, 2015 between 5 p.m. to 7 p.m. and co-operate with the investigating agency to the best of his capacity.

Application is allowed in the above terms and disposed of.

(SMT.SADHANA S.JADHAV, J.)