

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1445 OF 2015

Swapnil Baburao Inje. ..Applicant.
Versus
The State of Maharashtra ... Respondent.

Mr. G.K.Sovani for the Applicant.
Ms.P.P.Shinde, APP. for the State.
Mr.Amol Wagh for Respondent No.2.

CORAM: A.S. GADKARI, J.

DATE : 16TH DECEMBER, 2015

P.C.:

The applicant is apprehending arrest in CR No.I-253-2015 registered with Ram Nagar Police Station, Domivli for the alleged offence punishable under section-354, 376, 323,504 and 506 of the I.P.C.

2) Heard Learned counsel for the applicant, learned counsel appearing for the intervener complainant and the learned APP. Perused the record annexed to the present application.

3) The complainant has registered the aforesaid FIR dated 10.9.2015 on the premise that when her mother was admitted to the hospital, the applicant herein a medico, developed friendship with her and their friendship subsequently resulted into the relationship and

taking undue advantage of the same the applicant has committed the offence as contemplated under section 376 of the I.P.C. For the sake of brevity the facts mentioned in the FIR are not reproduced in the present order and also with a view to cancel the identity of the complainant. Suffice it to say that, on the basis of the first information report the aforesaid crime has been registered.

4) The learned counsel for the applicant submitted that on plain reading of the first information report it demonstrates that the alleged offence of rape is not made out as the act of the complainant was a consensual act. I have perused the first information report. It appears that there is substance in the contention of the learned counsel for the applicant. The learned counsel for the complainant opposed the present application. He submitted that after the applicant was granted protection by this court on 29.9.2015 he is indulging into activities of administering threats to the complainant through unknown persons. He further makes a grievance that police are not taking cognizance of the complaint made by her.

5) As stated herein above, the first information report discloses that the alleged offence under section 376 against the applicant was consensual act of the complainant and therefore, prima facie in my opinion, the custody of the applicant for

interrogation is not necessary. In view of the above, interim order dated 29.9.2015 is hereby confirmed. Application is accordingly allowed.

6) As the main application bearing No.1445/2015 itself is disposed off, the Criminal Application No.1022/2015 does not survive and the same is accordingly disposed off with liberty to file fresh application in case fresh cause of action arises in favour of applicant/ complainant.

(A.S.GADKARI, J.)