

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1471 OF 2015**

Sachin Harichandra Dharak

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. M. M. Nazmi with Mr. A. A. Siddiquie I/b A. A. Siddiquie & Associates for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 8th OCTOBER, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 177 of 2015 registered with the Govandi Police Station, for the alleged offences punishable under Sections 376(2)(n), 504, 506 of the Indian Penal Code.
3. The prosecutrix aged 30 years has lodged the aforesaid complaint. She has stated that in the year 2005, she got married to one

Gurav, however, as he was mentally unfit, she had divorced him. She has stated that in the year 2007, she met the present applicant aged 32 years who was working as a Mechanic in the said area. She has stated that their friendship developed into a love affair and they started meeting frequently. She has further stated that she had disclosed to the applicant that she was previously married and was divorced and that inspite of the same, the applicant had assured that he was ready to marry her. In the year 2008, the applicant is stated to have taken her to Siddhivinayak Temple, Mumbai and had promised that he will get married to her. In the year 2009, during Diwali, the prosecutrix's mother came to Mumbai, pursuant to which, the applicant met her and assured her mother that he would get married to the complainant. She has further stated that her mother and aunt went and met the applicant's parents in connection with their marriage. However, later the applicant's parents are stated to have not given their consent for the marriage, as the prosecutrix was a divorcee. The prosecutrix has further stated that the applicant assured her that she should not be worried and that he would get married to her and that he would convince his parents. Thereafter, they continued meeting. In 2009, according to the prosecutrix, the applicant took her for a film and thereafter, he took her to a lodge where

they had physical relations. She has stated that thereafter they continued to meet, however, there were no physical relations between the two. In 2011, again the applicant is alleged to have taken her to the lodge where they had physical relations. According to her, the applicant had assured her that within two days, he would take her to Titwala where they would get married. Sometime in March/April, 2011, the applicant is stated to have taken her to Titwala to a Temple where they got married and the applicant is stated to have put a Mangalsutra on her. According to her, there were no witnesses who were present there. She has stated that thereafter they went to Mahableshwar where they stayed for three days where again they had physical relations and thereafter they returned to Mumbai. She has stated that during the said period from 2011 to 1st May, 2015, they would intermittently go to the lodge where they would have physical relations. According to the prosecutrix, when she raised the topic of going to the village, and to his house, the applicant is alleged to evade the said question and had disclosed to her that he had taken a loan and after the loan was fulfilled, he would purchase a room, where they would stay together. She has alleged that the applicant started avoiding her thereafter and refused to take the prosecutrix to the applicant's home. She has alleged that she

disclosed the same to her mother and aunt pursuant to which they met the applicant's parents. It is alleged that the prosecutrix's mother had offered to take a room for them on rent, however, the same was refused, as a result of which, there was some altercation between them and the applicant is stated to have thrown the prosecutrix out of the house and disclosed to her that he had got married to her only to have physical relations, pursuant to which, the aforesaid compliant has been lodged.

4. Learned Counsel for the applicant states that a perusal of the complaint shows that both the prosecutrix and the applicant were adults and that the relations were consensual. He submitted that considering the nature of allegations, custody of the applicant is not required.

5. Perused the FIR. It appears that the applicant and the prosecutrix were in a relationship from 2007 and something went sour later in 2015. Considering the nature of allegations, the applicant is granted anticipatory bail on the following terms and conditions :

ORDER

(i) In the event of the 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 attend the concerned Police Station on every Saturday from 10:00 a.m. to 11:00 a.m. till the filing of the charge-sheet;

(iii) The applicant shall not contact, tamper or attempt to influence the prosecutrix, witnesses or any person concerned with the case.

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.