

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1362 OF 2014

Mr. Vivek Rambhaji Dahiphale. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Prashant Pandey, advocate for Applicant.

Mr. S.S. Pednekar, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 12, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicant herein is apprehending his arrest in
Crime No. 104 of 2014 dated 4/10/2014 registered at Alibag Police
Station for offence punishable under Section 376, 504(II) of the
Indian Penal Code.

3 It is the case of the prosecution that the complainant who happens to be a woman aged about 41 years old had read some of the poems/scripts/articles written by the applicant on her face book account. She was highly impressed with him and therefore, she had voluntarily sent a friend request to him. The request was accepted. The applicant happens to be a public servant working in the Mantralaya. The applicant and the complainant had continued chatting on the face book. The complainant had met the applicant on several occasions. They had physical relationship. The applicant herein is bachelor whereas the complainant is a married woman who is residing separately from her husband. According to the complainant, on 27/9/2014 the complainant had read a message on the cell phone of the applicant. The said material was objectionable. When She contacted the sender of the said message, she was informed that the said woman happens to be the wife of the present applicant. However, she contacted the said woman and verified the truth and had realised that the applicant rather happens to be a bachelor. In the first information report, she had stated that she

suspected that the applicant had cheated some women and in the future, he is likely to cheat some women and therefore, she was constrained to lodge report. It is also alleged that the applicant had given her assurance that he would get married to her and therefore, she had maintained physical relations with the applicant. Ultimately, when the applicant refused to marry her, she had lodged the report alleging therein that she has been cheated by the applicant.

4 Upon perusal of the papers of investigation, it appears that they were intimately chatting with each other. It is a case where relationship has gone sour, discordant note has struck between the two individuals who had consensual sex. Considering the papers of investigation and the submissions advanced across the bar, this Court is of the opinion that the applicant deserves grant of pre-arrest bail.

5 However, observations made hereinabove are prima facie in nature. The same cannot be considered at the time of deciding the

application for quashing of FIR or for deciding discharge application or at the time of trial.

6 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- and one or two sureties in the like amount.
- (iii) The applicant shall not tamper with the evidence.
- (iv) The applicant shall report to the concerned police station as and when called.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)