

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1549 OF 2015

Lekhraj Omprakash Velhu	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

ALONGWITH

CRIMINAL APPLICATION NO.932 OF 2015

Ms. Yojana Guruling Alure	...	Applicant
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IN THE MATTER BETWEEN

Lekhraj Omprakash Velhu	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Vikas B. Shivarkar, Adv. for the applicant.

Mrs. G.P. Mulekar, APP for the State.

Ms. Yojana Alure, Applicant in person in APPP No.932 of 2015.

CORAM : SMT ANUJA PRABHUDESSAI, J.

DATE : 22nd December, 2015.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.232 of 2015 registered with Wanvadi Police Station, Pune for the offences punishable under Sections 376 and 417 of IPC.

2. The allegations against the applicant in brief are that on 17th January, 2013 and again in the year 2014 the applicant had committed rape on the complainant on the premise of marriage. The

complainant further alleged that the applicant subsequently refused to marry her. The complainant therefore lodged FIR against the applicant pursuant to which the aforesaid crime came to be registered against the applicant.

3. Heard Mr. Shivarkar, the learned counsel for the applicant. He submits that the applicant at the time of the incident was above 19 years of age. The relations between the applicant and the victim were consensual and that the allegations levelled in the FIR do not prima facie constitute either section 375 or 415 of IPC.

4. The victim is present in the court she has submitted that the applicant herein had committed rape on her in January, 2013 after giving the cold drinks which was laced and she has stated that applicant in the year 2014 had taken her to a farm and committed rape on her, despite her resistance and against her will and without her consent. She has submitted that the applicant has criminal antecedent and hence he should not be released on bail.

5. Mrs. Mulekar, the learned APP for State submitted that the complainant has lodged several other complaints against the applicant

which prima facie reveal that the applicant and his family members were harassing the victim and have been threatening her that they will throw acid on her. She further claims that the conduct of the applicant disentitles him from grant of bail.

6. I have perused the records and considered the submissions advanced by the learned counsel for the applicant, intervener / victim and the learned APP for the State. The records prima facie reveal that the complainant is a major. The complainant and the applicant knew each other since about 4 years prior to lodging of the FIR. The FIR indicates that in April, 2012 the applicant had proposed to marry her and had physical relations with her on 17th January, 2013. The FIR does not prima facie indicate that the applicant had physical relations with victim after giving her any drinks.

7. The FIR further indicates that the applicant and the victim had gone to a resort at Tamhani Ghat and that he had sexual intercourse with her. It is to be noted that though the victim has stated that she was not a consenting party and that the applicant had forcible intercourse with her in the year 2013 and 2014, she had not lodged any complaint against the applicant till September, 2015. She

had also not informed the incident to any person. She had lodged the complaint only after the applicant had refused to marry her. The allegations in the complaint prima facie reveal that the act was consensual. Prima facie there is no material on record to indicate that the applicant had induced the complainant to have sexual intercourse on a false promise of marriage or that the complainant had entered into such relationship on misconception of fact. The nature of allegations do not justify custodial interrogation.

8. It is to be noted that the applicant was granted interim bail on 19th October, 2015. The complaints of harassment have been lodged only after the grant of interim bail. The possibility of filing such complaints to deprive the applicant of bail cannot be ruled out. Under these circumstances, the application is allowed on the following terms and conditions.

1. In the event of arrest of the applicant in Crime No.232 of 2015 registered with Wanvadi Police Station, the applicant shall be released on bail bond of Rs.25,000/ (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount to the satisfaction of the Sessions Judge, Pune.

2. The applicant shall report to investigating officer for 7 days from 10 am to 1 pm from the receipt of this order and further as and when required by the investigating officer for the purpose of the interrogation.
 3. The applicant shall not interfere with the complainant or witnesses and shall not tamper with evidence in any manner.
 4. The applicant shall stay away from the jurisdiction of Wanvadi Police Station except for the purpose of reporting to the investigating officer or appearing before the Court.
 5. The applicant shall furnish the investigating officer his contact number as well as his permanent and temporary address, if any. The investigating officer shall verify the same before the applicant is released on bail.
9. In view of the order passed in this ABA No.1549 of 2015, the Criminal Application No.932 of 2015 is also disposed of.

(ANUJA PRABHUDESSAI, J.)