

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.296 OF 2016

Dhananjay Laxman Joshi ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. A.H.H. Ponda i/b. Ms. P.G. Bhatia, for the Applicant.

Mr. S.H. Yadav, APP for Respondent – State.

Mr. R.P. Khobragade, for the original complainant.

Mr. D. Kavade (API), Dindoshi police station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **28th APRIL, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offence punishable under Section 376 of the Indian Penal Code in C.R. No. 79 of 2016 registered with Dindoshi police station, Mumbai. Initially the offence was registered on 1st February, 2016 at Mahim police station vide C.R. No. 00 of 2016. Thereafter, it was transferred to Dindoshi police station. The offence is registered at the instance of one Smt. Shakti Singh on 2nd February, 2016.

2. It is the case of the prosecution that the complainant is a 45 years old woman having 25 years old son and 21 years old daughter. She is staying away from her husband. She is an artist, fashion designer and a writer. It is her case that she became friendly with the applicant/accused 10 days prior to the date of lodging complaint, through social network. Thereafter, they met on 24th and 26th January, 2016 and started chatting. As per the case of the prosecutrix, the applicant/accused wanted to be in sexual relationship with her. Thereafter, they again met on 28th January, 2016 in one hotel. As per the case of the prosecutrix, the applicant/accused made her to book a room in her name. Then the applicant/accused asked her to go to the hotel first. The prosecutrix paid Rs. 1,700/- for booking of a room and then she phoned the applicant/accused and thereafter the applicant/accused came and they were together for some time in the said room. As per the case of the prosecution, the applicant/accused forced her to have sexual relation and without her consent, he raped her. It is her case that on the next day i.e. 29th January, 2016 he did not contact her. Therefore, she went to the office of the applicant/accused. However, he told her that he did not want to keep relationship with her and hence the complaint is lodged.

3. The learned counsel for the applicant/accused submits that the sexual relationship was consensual. Both, the applicant and the complainant are adults. They agreed to have physical relationship. However, as the applicant/accused did not keep contact with the complainant, she lodged a false complaint. The learned counsel for the applicant/accused relied on the SMS sent by both the parties to each other.

4. The learned prosecutor oppose the application.

5. Perused the first information report. *Prima facie* it does not disclose that it is an offence of rape. The prosecutrix is major. Hence, the interim pre arrest bail granted to the applicant/accused by this Court by an order dated 17th February, 2016 is hereby confirmed on the same terms and conditions. Now the applicant/accused shall attend the concerned police station as and when called by the investigating officer.

6. Accordingly the application stands disposed of.

(MRIDULA BHATKAR, J.)