

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 533 OF 2016

Swapnil Sunil Yevlekar	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Aniket U. Nikam i/b. Mr. Ashish Satpute, Advocate for the applicant.
Mrs. Rutuja Ambekar, APP for the State.
Ms. S. Singh, Advocate for the complainant.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **22nd March, 2016.**

P.C.:

This Application is moved for pre-arrest bail, as the applicant/accused is facing charges under sections 376(2)(N), 420, 506 of the Indian Penal Code in C.R. No. 26 of 2016 registered with Jogeshwari Police Station, Mumbai. The offence is registered at the instance of prosecutrix on 10th February, 2016.

2. It is the case of the prosecution that the applicant/accused and prosecutrix in the year 2008 were colleagues and working as executives in one firm. Their friendship was converted into affair. It is the case of the prosecutrix that the applicant/accused promised her that he would marry and in May 2009 he forcibly performed intercourse with her without her consent. Thereafter during the span of 6 years, as per the case of prosecutrix, the applicant/accused under the promise of marriage, forced

her to have sexual intercourse on number of occasions. From September, 2015, the applicant/accused started avoiding her and he informed her that he is going to marry some other girl. On 25th February, 2016 he married some other girl. So, the complaint is lodged by the prosecutrix.

3. The learned counsel for the applicant/accused has submitted that there was a long relationship between the applicant/accused and complainant of 6 to 7 years. However, as he found that they are not mentally compatible, the applicant decided to marry some other girl.

4. Learned APP submitted that the applicant/accused has promised the complainant that he would marry and therefore, the consent was obtained fraudulently. She submitted that even ad-interim prayer is rejected by the learned Additional Sessions Judge by an order dated 15th March, 2016.

5. Perused the FIR. Though it is a first date, as the Investigating officer is present and all the papers are before the Court, considering the charges levelled against the applicant/accused and the manner in which the offence is committed, this can be decided at the first instance. The prosecutrix is 29 years old when she gave complaint. Thus, she was major when the incident of alleged rape has taken place in May 2009. This is a case of love

affair of 6 to 7 years which ended into break-up. The case of the prosecutrix that the applicant/accused has promised to marry her is to be accepted at this stage. They were having affair and were in relation is also to be accepted. The fact of intercourse cannot be disputed at this stage. However, the question is such relationship is going on between the two adult and educated persons. In this case, the applicant/accused was working as executive and the complainant was working as senior executive in the firm, can it be said that the consequence of such relationship were not known to the complainant. It cannot be said at this stage that the consequence were not known to the complainant. Moreover, in the present facts and circumstances, there is a possibility that though initially the promise was given by the applicant/accused, but he might have found that he and complainant are not compatible as partners throughout the life and might have changed the mind. Considering this, pre-arrest bail is granted to the applicant/accused on the following terms and conditions:

ORDER

- i) Application is allowed.
- ii) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- iii) The applicant/accused shall not contact or pressurize the

complainant;

iv) The applicant/accused shall not indulge into any criminal activity while on bail;

v) The applicant/accused shall cooperate the Investigating officer and shall attend the concerned police station on 30th March, 2016 and 6th April, 2016 between 10 a.m. to 12 noon and thereafter as and when called by the investigating officer.

6. Anticipatory Bail Application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)