

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 775 OF 2016

Amar Singh s/o. Jagdish Singh	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Aaditya Arvind Gore, Advocate for the applicant.
Mrs. P.P. Shinde, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **29th April, 2016.**

P.C.:

This Application is moved for pre-arrest bail, as the applicant/accused is facing prosecution for the offences punishable under sections 376(2)(n), 420, 406, 504, 506 of the Indian Penal Code. The prosecutrix is 32 years old married lady and mother of two children. She gave complaint against the applicant/accused on 2nd April, 2016 and offence is registered at C.R. No. 223 of 2016 with Kashimira Police Station.

2. It is the case of the prosecution that the prosecutrix came in contact with the applicant/accused in October, 2015. She was in love with him. The applicant/accused also expressed love for her. They had consensual sexual relations. Thereafter the applicant/accused started demanding money from her in one or the other pretext. The complainant gave Rs.50,000/- to him. Thereafter he told that he wanted Rs.65,000/- to pay the charges of lawyer. So, she gave Rs.65,000/- to him. He instigated her against her husband and also told that if at all her gold ornaments are

given to him, then he could keep it in the locker of his mother. She handed over all her gold ornaments approximately 30 tolas and he told that he has kept those ornaments in his mother's locker, which is safe. During that time, her relations with her husband were strained. Her husband left her. The applicant/accused promised her that he would marry her and look after her children and told her to file the case under Domestic Violence Act against her husband and also demanded Rs.40,000/- to pay the fees of the lawyer. She paid the said amount. He used to take her to different hotels. However, after sometime she realized that applicant/accused is married. As her husband had left her and the children, he started coming to her home and started residing like the husband. He started using the two wheeler of the complainant. He made her to fill up the RTO transfer form of the said scooter. He opened the account in the bank by stating false that he is the husband of the complainant. Thereafter she realized that she has been cheated. The applicant did not return her money and the ornaments. So, she gave complaint on 2nd April, 2016.

3. The learned counsel for the applicant/accused submitted that the applicant/accused is innocent, as the sexual relations between the complainant and the applicant/accused were consensual. The applicant has not committed any offence. The learned counsel further submitted that on 2nd April, 2016 FIR was registered and in the Anticipatory Bail Application before the Sessions Court, the police filed report and no

offence was shown against the applicant/accused.

4. Learned APP opposed the Application.

5. Perused the FIR. It appears from the FIR that the applicant/accused has prima facie committed an offence of cheating and misappropriation under sections 406 and 420 of the Indian Penal Code. Section 420 is non-bailable offence. Section 376(2)(n) may or may not stand, however, the custody of the applicant/accused is required. Considering the allegations and the instances of cheating made out in the FIR, I am not inclined to grant pre-arrest bail to the applicant/accused. Hence, the Application for anticipatory bail is rejected.

6. The learned counsel for the applicant/accused submitted that he wants to challenge this order before the Hon'ble Supreme Court and hence prays interim pre-arrest bail granted earlier by an order dated 16th April, 2016 and thereafter the Application was rejected on 25th April, 2016 by the Sessions Court be continued. As the interim protection was granted by the learned Sessions Judge, the said protection to continue for two weeks, i.e., till 13th May, 2016.

7. The Application stands disposed of on above terms.

(MRIDULA BHATKAR, J.)