

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.783 OF 2016

Chirag Sunderlal Gupta

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.S.S. Punde for the Applicant

Mrs.Geeta P. Mulekar, APP, for Respondent – State

Mr.Chandrakat Gharge, PSI, Kurar Police Station – present

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

DATE: **MAY 2, 2016**

P.C.:

1. This application is moved for pre-arrest bail as the applicant-accused is prosecuted for the offences punishable under sections 376, 420, 506(2) of the Indian Penal Code. The offence is registered on 22.4.2016 at C.R. No.117 of 2016 with Kurar police station, Mumbai. It is the case of the prosecutrix that she is a resident of Delhi. She wanted to marry, so she uploaded her profile on Shaadi.com, a matrimonial website and got a friend request in January, 2015 from the applicant, who is a resident of Mumbai. He was also searching for marriagable girl for himself and he expressed that he wanted to meet her. The complainant wanted to act in Television serials. The applicant went to Delhi and he informed that he is unmarried. He went to her house and thereafter in July, 2015, and

told her that he wanted to marry her and he would give her some work in Mumbai in television serials. So she arrived in Mumbai on 17.7.2015 and at that time, the Manager of the accused came there to receive her at Mumbai Central and then she was put in as a paying guest with one lady one D'souza. Thereafter, he kept her in one rented flat at Riddhi Garden, Film City. He used to visit her and that that time, they had sexual relations. They went to Goa together. They had sexual relations there. Then, in January, 2016, she realised that she was pregnant, so she insisted that he should marry her, however, he refused and forced her to go for medical termination of pregnancy. He threatened her and then she was forced to go for medical termination of pregnancy on 17.3.2016. At that time, he kept her in a hotel by name Baba International hotel, Vile Parle. Thereafter, he stopped communicating with her, though she tried to contact him. She went to his office and found that he is married and so she gave complaint that though he was married, he represented that he wanted to marry her and kept sexual relations with her and therefore, she consented to have sexual relations on this representation and promise to marry. She then gave complaint.

2. The learned Counsel for the applicant submitted that this complaint is a counter blast of two complaints given to the police – one by his wife Bhavna, i.e., N.C. No.719 of 2016 on 1.3.2016 and another by himself on 27.3.2016. The learned Counsel submitted that the applicant-accused and

the complainant had consensual sexual relations and she herself has operated the fetus. The application is innocent and hence, he be protected.

3. Learned Prosecutor has opposed the pre-arrest bail application. She submitted that the police have recorded statement of D'souza and one Pandurang Jadhav, police constable. She submitted that he was present at the time of abortion. She relied on the medical papers collected by the police which show that on 17.3.2016, in the form of medical termination of pregnancy, the applicant has disclosed his relation as husband and signed the form and also signed for the complainant. She submitted that offence bearing No.517 of 2010 at Parksite police station, Vikhroli under sections 376, 354, 342, 294, 323, 506, 511 r/w 34 of the Indian Penal Code is pending against him.

4. Perused the FIR, the complaints given by the applicant and his wife. Perused the papers of investigation, the statement of D'souza and Pandurang Jadhav. It prima facie shows that the applicant-accused has taken initiative and has kept the girl at various places. The signature is found on the form of medical termination of pregnancy where the relationship is mentioned as husband. This cannot be said a part of social work. Prima facie, Though the prosecutrix is a major, still, considering the contents in the FIR, I am of the view that prima facie, the offence under

sections 376 and 313 is made out. It is not a case to give protection under section 438 of the Code of Criminal Procedure.

5. Anticipatory Bail Application is rejected.

(MRIDULA BHATKAR, J.)