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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.877 OF 2016

Prashant Shivaji Jadhav	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Kuldeep S. Patil, for the Applicant.
Mr. Arfan Sait, APP for the Respondent State.
Mr. V.D. Kirve, Head Constable Vishrambaug Police Station, Sangli,

CORAM : A. M. BADAR, J.

DATE : 12th JULY, 2016.

P.C. :

1. The applicant/accused, in crime No.51 of 2016, registered with Vishrambaug Police Station, District: Sangli, for offence punishable under Section 376(1) of the Indian Penal Code and under Section 3(1) (r), (s), 3(1) (w) (I) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, by this application is seeking pre-arrest bail.

2. Heard the learned counsel for applicant/accused. He submitted that there is no corroboration to the version of prosecutrix and report of the alleged incident came to be lodged after delay of one month. The learned counsel further argued that prosecutrix was under control and guardianship of one Sharvari Ashok Pawar. The said Sharvari was

married to one Jyotiram Dabade in the year 1998. It is further argued that though marriage of Sharvari with Jyotiram was subsisting, she married to a person namely Nitin Londhe. Subsequently she deserted said Nitin and therefore, Nitin lodged report to the police. It is further argued that subsequently said Sharvari married present applicant on 27.2.2015 by swearing affidavit that she is unmarried lady.

3. The learned counsel by pointing out the order of this Court in Anticipatory Bail Application No.1096 of 2015, argued that the applicant after snapping live-in-relationship with Sharvari, because of settlement of dispute with his wife through intervention of the Court, resumed cohabitation with his wife. Therefore, according to learned counsel for the applicant, applicant is falsely implicated in the crime in question by said Sharvari.

4. The learned counsel further argued that said Sharvari was in habit of lodging false reports against several persons. He argued that by setting up with one lady of her acquaintance said Sharvari has falsely implicated Sudhakar Khade in similar offence. It is further submitted that Sharvari had lodged criminal complaint against Sudhakar for offence punishable under Section 379 read with 34 of the Indian Penal Code in the Court of Judicial Magistrate First Class, Sangli. She herself had lodged report against Sudhakar Khade on 24.11.2014 resulting in

registration of Crime No.183 of 2014. Therefore, in the submission of the learned counsel for applicant, applicant is falsely implicated in the crime in question at the instance of Sharvari.

5. The learned APP opposed the application by submitting that extra ordinary relief of anticipatory bail cannot be granted to the applicant considering the nature of crime alleged against him. The learned APP further argued that version of prosecutrix has again corroboration from her medical examination. The delay in lodging F.I.R. is properly explained.

6. Perused the papers of investigation. F.I.R. itself reveals that present applicant was residing with Sharvari Pawar and prosecutrix in an apartment taken on rent by him. It is averred in the F.I.R. by the prosecutrix that on 28.2.2016 by taking advantage of the fact that Sharvari is out of the apartment, present applicant had committed rape on her. The prosecutrix further averred that on return of Sharvari, applicant confined her in bathroom and thereafter left apartment. This incident allegedly happened on 28.2.2016 and the report thereof came to be lodged on 27.3.2016. The prosecutrix reported that delay occurred is as she was to appear for X th Std examination commencing from 1st March,2016 and she thought that lodging report would have an adverse effect on her performance in the examination. Informant further averred that because of this incident, she became frightened.

7. I have carefully perused the case diary as well as annexures to the application. It appears that Sharvari Pawar with whom applicant was having live in relationship, is a married woman with one more extra marital relation to her credit. It is also seen that she lodged report against Sudhakar Khade and her family friend lodged another report against said Sudhakar Khade for offence under Section 376 of the IPC. However, in the case in hand, report came to be lodged by the prosecutrix, who had just attained majority. The prosecutrix has alleged that applicant/accused committed rape on her in absence of her guardian Sharvari Pawar. The medical examination of the prosecutrix conducted at Government Hospital prima facie corroborates the version of prosecutrix. The falsity of allegations cannot be tested at this stage and therefore, applicant is not entitled for pre-arrest bail. Application, is therefore, rejected.

[A. M. BADAR, J.]