

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.923 OF 2016

Anil Harish Gehani Applicant

Vs.

1 The State of Maharashtra
 At the instance of Khar Police
 Station.

2 Mrs. Heena Dinesh Ramnani Respondents
 Bandra (W), Mumbai

Mr. Sudeep Pasbola i/by Omprakash Dubey Advocate, for the applicant.

Smt. J.S. Lohokare, APP for the State.

Mr. Santosh Raje, original complainant.

Coram : N.W. SAMBRE, J.

Date : 16th December, 2016

P.C.

1 The applicant is seeking pre-arrest bail in C.R. No. 200 of 2016, registered with Khar Police Station for the offences punishable under Sections 376, 354(c) and 506 Indian Penal Code.

2 It is the case of the prosecution that the present applicant took disadvantage of the differences between the

complainant and her husband, committed an act of rape on 20th January, 2016.

3 The learned counsel for the applicant while trying to make out the case for grant of pre-arrest bail, would urge that apart from unexplained delay of about one month in lodging F.I.R., same F.I.R. would depict the physical relation between the applicant and the complainant, if any, were by consent of the complainant for the said purpose, he would tried certain material such as Video, messages etc. He would then submit that it is only at the behest of the husband of the complainant, the applicant is falsely implicated.

4 The learned APP opposed the application, who is assisted by the learned counsel for the complainant on the ground that custodial interrogation of the applicant is necessary as the memory card is yet to be recovered from the applicant though mobile phone is already seized. He would then submits that the custodial interrogation is also required for carrying out the medical examination of the applicant.

5 Having perused the investigation papers and the report of the Forensic Science Laboratory, there appears interaction between the applicant and the complainant for a quite long time. Same speaks of the friendship between the applicant and the complainant and the fact that there is

unexplained delay in lodging the FIR of about one month speaks voluminous about the conduct of the complainant. There is enough material so as to prima facie infer that the complainant consented for relationship, if any, between the applicant and herself.

6 So far as the custodial interrogation for recovery is concerned, for the purpose of medical examination of the applicant, the applicant volunteers that he shall attend the police station as and when directed by the court. In view thereof, the application needs to be allowed.

7 In the event of arrest, the applicant be released on bail on P.R. Bond of Rs.50,000/- (Rupees Fifty Thousand only) with one or two sureties in the like amount.

8 The applicant to attend Khar Police Station from 27th December, 2016 to 29th December, 2016 between 10.00 am. and 12.00 noon and thereafter as and when called.

9 The applicant not to tamper with the evidence and/or influence the witnesses in any manner whatsoever.

(N.W. SAMBRE, J.)