

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

**CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1522 OF 2016**

Vipul Pandurang Yadav. ... Applicant.  
Versus  
The State of Maharashtra. ... Respondent.

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Mr. Balwant V. Salunkhe, advocate for Applicant.

Mr. Vinod Chate, APP for State.

Mr. Shivshant L. Khose, PSI, Lonikand Police Station, Pune(Gramin).

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**CORAM : SMT. SADHANA S. JADHAV,J  
DATE : SEPTEMBER 21, 2016**

**P.C.:**

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 504 of 2016 registered at Lonikand Police Station on 13/7/2016 for the offence punishable under Section 420, 354 of the

Indian Penal Code and 66(c) of the Information Technology Act, 2005.

3 It is the case of the prosecution that on 13/7/2016 Ms. X lodged a report alleging therein that she was acquainted with the present applicant. They were on friendly relations. They had even clicked some photographs together. He had her cellphone number 8378047553. Subsequently, she had discontinued using the said cellphone and her cell phone, which she was using was 7895973017 and her whatsapp number was 9096777909. It is alleged that the applicant was insisting upon the complainant to get married to him. She had learnt from reliable sources that he was addicted to alcohol and therefore, she had made it clear that she would not get married to him. She had also warned him not to call upon her on her cell phone. She had also requested him to delete the photographs in the cell phone. One fine day, her brother Ganesh asked her as to why she was sending her photographs to him on his whatsapp. She had informed him that she has discontinued using the said whatsapp

number since long and that some one else is using that number. Upon enquiry by her brother, she had told him that the present applicant had taken her cell phone number and that she had also created face book account, which was hacked by the present applicant. She had also informed her brother that he has uploaded their photographs taken together on the said face book account. They had also requested him not to indulge into said act. She had deleted her face book account. Thereafter, according to the complainant, the applicant had created 8 fake face-book accounts in her name and was uploading her photographs and making lewd comments just to impress upon people that she was operating said face book account.

4 The learned Counsel for the applicant submits that the complainant was in love with the present applicant. It is alleged that they were taking photographs together but since a discordant note had struck between them, he has been falsely implicated. The learned Counsel for the applicant has also relied upon certain whatsapp messages between the complainant and one Vicky Narale as well as

the messages between the complainant and the applicant. It is submitted that on 3/4/2016 the complainant and the applicant had appeared before the police and at that time, photographs were deleted from their cell phone and hence, according to the learned Counsel, the applicant who has attempted to appear for the public service commission examination deserves to be granted pre-arrest bail.

5 As against this, the learned APP has placed reliance upon the papers of investigation and has shown that the cell phone number 8390252819 was being used by the present applicant and that the accounts were opened from the cell phone number in the name of the complainant. The date of registration is shown as 10/6/2016. All the face book accounts are opened on the said cell phone number which was being used by the applicant. Learned APP has further submitted that even after registration of crime, the applicant has created two other fake face book accounts. One is in the name of Ashutosh Patil but the profile photo is that of the applicant and the

complainant. All these would clearly indicate that the applicant is misusing friendly relations between the complainant and the applicant and has cheated the complainant.

6 The fact that the complainant and the applicant had appeared before the police would clearly indicate that there is no delay in lodging first information report, as is contended by the learned Counsel for the applicant. The report was lodged to the police station and therefore, they were called upon by the police. The offence under Section 66(1) being bailable offence, the applicant seems to have been released after giving warning and it would be hazardous situation, if girls are exposed on social media by taking disadvantage of their friendly relations. The applicant has cheated the complainant. Creation of fake account in the name of the complainant would also attract an offence under section 468 and 469 of the Indian Penal Code i.e. fabrication. Hence, the applicant does not deserve to be granted pre-arrest bail.

7      The application being sans merits stands rejected.

8      However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same while deciding application under section 439 of the Code of Criminal Procedure, 1973 or at the time of trial.

9      The application is disposed of accordingly.

**(SMT. SADHANA S. JADHAV,J)**