

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1678 OF 2015

Ikram Patel s/o. Abdul Sattar	... Applicant
vs.	
The State of Maharashtra	... Respondent

Mr. Atul Pandey i/b. Mr. A.M. Saraogi, for the Applicant.
Mr. Shrikant Yadav, APP for the State-Respondent No. 1.
Mr. J. Kini i/b. Mr. Suresh Dubey for Respondent No. 2.

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

DATE: **7th MARCH, 2016**

PC.:

1. The learned counsel for the applicant/accused and the learned counsel for the complainant-wife inform the Court that the mediation could not worked out. Hence, the matter to proceed.
2. The Registry is directed not to accept the applications where translation of the documents/sms is not filed in typed copies.
3. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under

Sections 417 and 376 of the Indian Penal Code read with Sections 4 and 8 of Protection of Children Sexual Harassment Act, 2012 (POCSO) in C.R. No. 394 of 2015 registered with Juhu police station, Mumbai on 23rd September, 2015.

4. It is the case of the prosecution that the complainant that in the year 2014-15 she was studying in 12th standard and she was approximately 17 years old. At that time, she came in contact with the applicant/accused who is the family doctor of her maternal aunt. Thereafter the applicant/accused started persuading her and showed his interest in her and he was in love with her. She gradually also developed love and affection for him. They both were from the same religion, took decision to marry. It is the case of the prosecution that in July, 2014 the complainant and the accused had sexual relations and thereafter when she asked the applicant/accused about the marriage, he tried to avoid her. Therefore, she informed about this fact to her mother and other family members. Her family members intervened and they contacted the father of the accused and thereafter on 15th April, 2015 both got married as per Muslim rites and rituals. In support of this, Nikahnama is produced along with the

papers. However, as she was minor, she was staying with her mother at the instance of the father of the accused and then on 21st September, 2015 when there was a function which is called *Bidai*, the accused and his family members did not contact. Then the girl and the family members of the girl went to Vakola police station and registered the offence against the applicant. Thereafter, she consumed phenol and attempted to commit suicide. Then, she was admitted in the hospital immediately. Therefore, this complaint is lodged.

5. The learned counsel for the applicant/accused submitted that this is a false case as the applicant/accused was forced to marry her. He has already filed a suit for declaration under Section 34 of the Specific Relief Act. He further submitted that, he relied on the SMS where the girl threatened the applicant that she would commit suicide and therefore, he was forced to marry. He submitted that the applicant/accused is innocent and he be granted pre arrest bail.

6. The learned counsel for the informant and the learned APP for the State while opposing the application have submitted that, Nikahnama and SMS are on record. It is submitted that the girl filed a

complaint on 23rd September, 2015 after the applicant/accused has filed suit for declaration that the marriage is void. The learned counsel further relied on the order dated 13th October, 2015 passed by the learned Sessions Judge, Mumbai.

7. Perused the First Information Report. It appears that at the relevant time, the girl was minor. I have considered the sequence of the incidents. It appears from the SMS that the girl and boy were in physical relationship. However, the Nikahnama/certificate dated 15th April, 2015 signed by both the families shows that the marriage took place on that date. If that marriage would have been forced to the applicant/accused, he should have taken steps for declaration of marriage as void immediately or he would have lodged the complaint with the police. However, for nearly two months he did not take steps but filed the suit for specific performance in June, 2015.

8. Under such circumstances, I am not inclined to grant pre arrest bail to the applicant. Hence, the Anticipatory Bail Application stands rejected.

(MRS.MRIDULA BHATKAR, J.)