

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2077 OF 2016

Dilip Lalchand Aswani	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

....

Mr. M.J.Bhatt, Advocate for the Applicant.
Mr. N.B.Patil, APP for the Respondent/State.
Mr. Gulabrao R. Patilj PI attached to Shivajinagar Police Station
Ambernath (E) present.

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CORAM : N.W.SAMBRE, J.

DATED : 2nd December, 2016.

P.C.

1 The Applicant is seeking pre-arrest bail in Crime No.130 of 2016 for the offence punishable under Sections 376, 377, 420, 494 of IPC read with Section 66(D) of the Information Technology Act.

2 The prosecution case is that the Complainant who is aged about 24 years entered into an agreement of purchase of flat with the present applicant and subsequent thereto developed intimacy with the Applicant. The Complainant then claims that she got married to the Applicant in a temple on July 25, 2013. The Applicant though was already married and blessed with children has suppressed his first marriage. It is also claimed that fraud was practised on the Complainant in the matter of sale of flat.

3 In this background while trying to make out case for grant of bail, learned counsel for the Applicant submits that the Applicant is falsely implicated. According to him, there exists dispute regarding the flat in question in between mother of the Applicant and the Complainant for which a civil suit is pending before the competent Civil Court. According to him, the claim that there was a marriage between the Applicant and the Complainant in a temple and subsequent thereto, the present Applicant has denied the said event is a fact which is far away truth as looking to the age difference between the Complainant and the Applicant which is about 35 years.

4 The learned counsel would then urge that there is an unexplained delay in lodging FIR and the Applicant is falsely implicated.

5 Voluntary statement is made that the Applicant is ready and willing to surrender his mobile immediately to the Investigating Officer.

6 The learned APP while strenuously opposing the bail submits that there are serious accusations against the Applicant and prima-facie material is available so as to infer involvement of the Applicant in the crime in question. According to him, custodial interrogation is necessary for recovery of mobile, the other information regarding Applicant's first marriage, transfer/sale of flat, etc.

7 Having bestowed my thoughts to the submissions made, it is not in dispute that there exist civil proceedings in between the mother of the Applicant and the Complainant in relation to immovable property in the background of allegation of sale of wrong property to the Complainant. Age difference between the Complainant and the Applicant is also not disputed.

8 FIR depicts that the Complainant has claimed that she has last relation with the Applicant sometimes in 2015. There is no explanation whatsoever as to what has prompted the Complainant to file FIR at such a belated stage.

9 In the above referred background, false implication of the Applicant cannot be ruled out.

10 In view thereof, Application needs to be allowed. Hence, the following order:

- (1) In the event of arrest, the Applicant shall be released on executing PR Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- (2) The Applicant shall appear before the Investigating Officer on 14th and 15th December, 2016 between 10 a.m. to 12 noon and thereafter as and when called.
- (3) He shall co-operate with the Investigating Officer in the matter of giving blood samples, etc. for

carrying out appropriate medical examination.

- (4) He shall not tamper with the prosecution evidence and/or influence the prosecution witnesses.

11 The application stands disposed of as allowed.

(N.W.SAMBRE, J.)