

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1964 OF 2015

Avinash Pandurang Marke	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Kuldeep Patil, Adv. a/w. Mr. Prashant Hagare, Adv. for the applicant.

Mrs. G.P. Mulekar, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.

DATE : 4th January, 2016.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.364 of 2015 registered at Hadapsar Police Station for the offences punishable under Sections 376, 354(D) of IPC and 67 and 67 (A) of Information and Technology Act.

2. The allegations against the applicant in brief are that the applicant had compelled the victim to have sexual intercourse with him and that extorted money from her under the threat of circulating obscene photographs. It is further the case of the prosecution that the applicant had compelled the victim to withdraw money from the account.

3. Mr. Patil, the learned counsel for the applicant has

submitted that the relationship between the applicant and the victim was consensus. This is evident from affidavit filed by the victim. He has further submitted that the husband of the victim had filed a suit for divorce and that perusal of the averments made in the plaint reveal that the applicant and the victim were having friendly relations and that the physical relations were consensus.

4. Mrs. Mulekar, the learned APP for the State has submitted that the previous bail application filed by the applicant was dismissed on merits and there is no change in circumstances to justify filing of a fresh bail application.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and learned APP for the State. The records prima facie reveal that the applicant herein had filed an application for bail being No.1170 of 2015. The said application was dismissed by this Court vide order dated 12th August, 2015; wherein it has been held that there is prima facie material to show that even after the marriage of the victim, the applicant had sexual intercourse with the victim under the threat of publishing obscene photographs on the facebook. It was held that there was

prima facie material to indicate that the victim was subjected to financial as well as sexual exploitation.

6. The applicant herein has sought bail on the ground that the victim had filed affidavit wherein she admitted that she was having friendly relationship with the applicant. It is pertinent to note that the victim has subsequently committed suicide and an offence was registered against the husband of the victim for abetting suicide. The affidavit alleged to be of the victim, was relied upon by the husband of the victim in the application for anticipatory bail. The earlier application having been dismissed on merits, the applicant cannot seek bail relying upon an affidavit, genuineness of which is not verified. Similarly the averments made by the husband of the victim in the plaint also cannot be a ground for grant of bail or for taking a view different from the view taken earlier in order dated 12th August, 2015.

7. There being no change in circumstances, the application stands dismissed.

(ANUJA PRABHUDESSAI, J.)