

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 247 OF 2017

Dattaram Anaji Chawan. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Mr. Niranjan Mundargi i/b. Mr. Kunal D. Ambulkar, advocate for Applicant.

Mr. R.M. Pethe, APP for State.

Ms. Padmaja Yadav, PSI, Vartak Nagar Police Station, Thane.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : FEBRUARY 9, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the Learned APP for State. Perused 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. 29 of 2017 registered at Vartak Nagar Police Station for offence punishable under section 376, 506 of the Indian Penal Code.

3 It is the case of the prosecution that on 21/1/2017 Ms. X lodged a report at the police station alleging therein that she has a daughter who is aged about 8 years. Six years ago she had come to Mumbai in search of the job. Her friend Raj Patil had introduced to the present applicant. She had given her biodata to the applicant as she was in search of job. According to the complainant, on 27/7/2014 the present applicant had called upon her and informed her that one person from telecom company is willing to give her job. She had met him. On the way he had introduced her to one Rajesh Dwarkaprasad Sharma. It is alleged in the FIR that on that day, Rajesh Sharma had taken her to a hotel where they had booked a room. The present applicant had in fact, accompanied them only upto the hotel and thereafter, had parted with their company. It is alleged that Rajesh Sharma had ravished her on that day. It is also alleged that Rajesh Sharma had video-graphed his act with the complainant and had

threatened of exposing her to social obloquy. Subsequently, she had intimate relationship with Rajesh Sharma. In the year 2015 Rajesh Sharma got job in Ahmedaba. He had assured her that he would get married to her. She had been to Ahmedaba. There, she learnt that Rajesh Sharma is married man and have two children. He had informed her that he would divorce his first wife. He also used to visit her during the period 2015 to 2016 and stay in her house. They had sexual relations during that period also. He had then been to his native place at Jaipur. She was called to Jaipur. Rajesh Sharma had accompanied her to Thane and was staying with her during the period 5/1/2017 to 19/1/2017 and had sexual relations with her on the ground that he would soon get married to her. Subsequently, she had realised that she has been cheated.

4 It is pertinent to note that there is no allegation against the present applicant for offence punishable under section 376 of the Indian Penal code. Prima facie, the allegation is that he had introduced her to Rajesh Sharma. It is not alleged in the FIR that she

had met the present applicant during the period 27/1/2014 till the lodging of FIR. It is also alleged that Rajesh Sharma had threatened her that he would post her pictures on the social media.

5 Prima facie, the offence was registered only against Rajesh Sharma for offence punishable under section 376 of the Indian Penal Code and the only allegation against the present applicant is that he had introduced her with Rajesh Sharma. It is in these circumstances, the present applicant is apprehending his arrest and seeks pre-arrest bail.

6 The learned APP submits that on 8/2/2017 after the matter was filed, supplementary statement has been recorded by the Investigating Officer and according to her when she had demanded her photos from Rajesh Sharma, he had informed her that while going to Jaipur, he had left laptop and the pictures with the present applicant. She had expressed an apprehension that on the basis of the photos and

material in the laptop, the applicant may also solicit sexual favours from her.

7 The learned Counsel for the applicant rightly submits that the supplementary statement has been recorded in a peculiar manner only in order to seek police custody of the applicant. In the first information report, there is no reference to the laptop being in the custody of the present applicant.

8 In the peculiar facts and circumstances of this case, the applicant deserves pre-arrest bail.

9 However, the observations are restricted to an application under Section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of decided application for quashing of FIR or discharge or at the time of trial.

10 Hence, the following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 29 of 2017 registered with Vartak Nagar Police Station, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more local solvent sureties in the like amount.
- (iii) The applicant shall report to the concerned police station from 16/2/2017 to 19/2/2017 everyday between 10.30 a.m. to 1 p.m. and cooperate with the investigating agency to the best of his capacity.
- 11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)