

Anand

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

ANTICIPATORY BAIL APPLICATION NO.953 OF 2017

Bhanudas Baburao Gadge .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.M.K.Kocharekar i/b. Mr.U.B.Nighot, Advocate, for the Applicant

Ms Anamika Malhotra, APP, for the Respondent - State

Mr.Arjun H. Patil, Advocate, for the Original Complainant

CORAM : REVATI MOHITE DERE, J.

DATE : 19.06.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C.R.No.29 of 2017 registered with the Alephata Police Station, Pune, for the alleged offences punishable under Sections 376(2)(N), 354(A)(1) and 506 of the Indian Penal Code.

3. Learned counsel for the Applicant submits that the Applicant aged 61 years, is a practicing lawyer and the Complainant is also an Advocate, who was working with the

Applicant as his junior, since 2014. Learned counsel for the Applicant submitted that the Complainant has alleged that from 16th December, 2014 onwards, the Applicant committed sexual intercourse with her, on the assurance that he would marry her. He submitted that the Complainant has further alleged that the Applicant had assured her parents, that he would get married to her shortly; and that the Applicant had also purchased sarees and ornaments for her. According to the Complainant, the Applicant thereafter refused to marry to her. Learned counsel submitted that the Applicant is ready to undergo any medical tests, including the voice and potency test.

4. Learned APP states that pursuant to the direction of this Court dated 05.06.2017, the voice sample of the Applicant has been taken and sent to the F.S.L.. She further submitted that the potency test has also been conducted. She has tendered a copy of the said report. The conclusion of the said test is as under :-

“The above subject may be incapable of performing sexual act”

5. The principal allegations as against the Applicant are, that he established relations with the Complainant, on the

pretext that he was going to marry her. The Applicant at the relevant time was 61 years and the Complainant was 40 years

6. Learned counsel for the Original Complainant opposes the bail Application and states that the Applicant has been threatening the Complainant and as such, he ought not to be granted Anticipatory Bail. Learned counsel for the Applicant denies the allegations. Be that as it may, in the peculiar facts of this case, custodial interrogation of the Applicant is not required. The Application is allowed and the Applicant is granted pre-arrest bail on the following terms & conditions:-

O R D E R

- (i) In the event of arrest, the Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.25,000/-** with one or two sureties in the like amount;
- (ii) The Applicant shall report to the investigating officer of the concerned police station **as & when called for** by the investigating officer;
- (iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (iv) If there is a breach of any of the aforesaid conditions,

the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)