

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

ANTICIPATORY BAIL APPLICATION NO. 660 OF 2017

Afsar Iqbal Khan Vs. State of Maharashtra

**Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders.**

Court's or Judge's orders

Dr. Pravin Singhal for Applicant.
Mrs. J.S. Lohokare, APP for State.
Mr. Satishkumar Raut, API, Oshiwara Police Station present.

CORAM : A.S. GADKARI, J.
DATE : 3rd May 2017.

P.C.:

1] The applicant is apprehending arrest in CR. No.92 of 2017 registered with Oshiwara Police Station, Mumbai under Sections 376(2)(n), 313, 323 of the Indian Penal Code.

2] The learned Counsel for the applicant submitted that the applicant and the first informant were in live-in-relationship since 2015 upto 2017. That the alleged act as contemplated under Section 376 of the Indian Penal Code was the consensual act between two adult persons. He submitted that as a matter of fact, the applicant and the first informant had submitted the documents for registration of marriage before the Marriage Officer, Mumbai on 31.11.2016, however, due to difference of opinion with respect to performing of religious ceremonies, the marriage did not take place and thereafter the complaint was lodged by the first informant.

3] Perused the record of investigation produced by the learned APP. The police have recorded supplementary statement of the first informant on 31.3.2017. It appears from the record that there is substance in the contention raised by the learned Counsel for the applicant. The alleged act as contemplated under Section 376 of the Indian Penal Code prima facie waas appears to be a consensual act between the applicant and the first informant. In view thereof the custodial interrogation of the applicant for further investigation of the present crime is not necessary. The applicant has made out a case for his release on pre-arrest bail.

Hence, the following Order:

- (i) In the event of arrest in CR. No.92 of 2017 registered with Oshiwara Police Station, Mumbai, the applicant shall be released on bail on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
 - (ii) The applicant shall attend the Investigating Officer as and when called for between 11.00 a.m. to 2.00 p.m. to join the process of investigation till the submission of final report/chargesheet.
 - (iii) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- 4]** The application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)