

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 740 OF 2017**

Pradeep Annaso Shinde	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Prashant M. Patil for the Applicant

Mr. Prashant Jadhav, A.P.P for the Respondent-State

API Mr. M. N. Waiwase from Hupri Police Station, Kolhapur, is present

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 2nd MAY, 2017

P.C.

1. Heard learned Counsel for the applicant.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 22 of 2017 registered with the Hupri Police Station, Kolhapur, for the alleged offences punishable under Sections 363, 366 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that the applicant and the complainant's daughter were known to each other. He submitted that the allegations made against the applicant are baseless, inasmuch as, the applicant and the complainant's daughter got married according to Hindu Vedic rites on 10th March, 2017. He submitted that thereafter, the

applicant and the complainant's daughter had given notice of intended marriage dated 15th March, 2017. He relied on page 37 in support of his submission. He submitted that the complainant's daughter had gone with the applicant on her own accord and as such there was no question of kidnapping her from the lawful custody of the complainant. He submitted that the applicant and the complainant's daughter were in love with each other and as they had no support from their families, had decided to run away and get married.

4. Learned A.P.P has tendered the statement of the prosecutrix, recorded under Section 161 Cr. P. C. In the said statement, the prosecutrix has stated that she had gone with the applicant on her own accord and that they both had got married at Kolhapur, according to Hindu Vedic rites. She has made no allegations of rape in her 161 statement as against the applicant. Learned A.P.P has also produced the 164 statement of the prosecutrix in a sealed envelope. The same is opened, read and again resealed in the envelope. In the said 164 statement also, the prosecutrix has stated that she had left the house on her own accord and that she had got married to the applicant.

5. Perused the papers. It appears that the applicant and the prosecutrix were known to each other for almost two years prior to the date of incident. It also appears that they had given notice of their intended marriage on 15th March, 2017. It also appears that the prosecutrix had gone with the applicant on her own accord, as her parents were against their relation and hence, they ran away and got married. It appears that the prosecutrix was minor at the relevant time aged about 17 years 5 months. The prosecutrix has not made any allegations of sexual assault/rape, against the applicant either in her 161 statement or in the 164 statement.

6. In the peculiar facts of this case, the application is allowed and the applicant is granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount ;

(ii) The applicant shall report to the Investigating Officer of the concerned Police Station as and when called.

(iii) The applicant to cooperate with the investigating agency.

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*, for the purpose of deciding this application.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.