

Anand

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

**ANTICIPATORY BAIL APPLICATION NO.967 OF 2017**

Aasif Irshad Ali Hafij .Applicant

Vs.

The State of Maharashtra .Respondent

**WITH  
CRIMINAL APPLICATION NO.491 OF 2017  
IN  
ANTICIPATORY BAIL APPLICATION NO.967 OF 2017**

Iffat Sharif Sardar Khan .Intervenor

**IN THE MATTER BETWEEN**

Aasif Irshad Ali Hafij .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.I.A.Shaikh i/b. Ms S.M.Yadav, Advocate, for  
the Applicant

Mr.Prashant Jadhav, APP, for the Respondent –  
State

Mr.S.R.Pawar, Advocate, for the Intervenor

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 07.07.2017**

**P.C.**

. Heard learned counsel for the parties.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 17 of 2017 registered with the Kolad Police Station, Raigad, for the alleged offences punishable under Sections 376, 506 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the said case. He submitted that the complainant was a married lady with two children and that she was having illicit relations with the applicant. He relied on documents which are on page 19 i. e. the injury certificate of the applicant (pursuant to the incident of assault by the complainant's father and other family members); an affidavit on page 21 of the applicant's father wherein, it is stated that the applicant was in love with the complainant and that she had decided to voluntarily desert her first husband and that

the applicant was ready to take her full responsibility. In the said affidavit, it is also stated that the complainant was leaving the house voluntarily and was going to stay with the applicant. The said affidavit has been signed by the complainant and the panchas. Learned Counsel also relied on the affidavit of the complainant wherein, she has stated that she was having illicit relations with the applicant and that at no point of time, the applicant had compelled her to have relations with her.

4. Learned APP opposes the Application. Learned counsel for the Intervenor also supports the learned APP. Learned counsel for the Intervenor submits that the Complainant was made to forcibly execute the Affidavit. She submitted that the Applicant had physical relations with the Complainant, against her wish and due to threats.

5. Perused the papers. The Complainant is a married lady with two children. She has stated that for three years, her husband was working as a driver and would be at work from Monday to Thursday and from Friday to Sunday he would visit Pune, for his Company work. She has alleged that the Applicant would live in the same vicinity and was their neighbour. She has stated that they knew one another and hence they became friends. She has alleged that as her husband was away, she would sometimes ask the Applicant to get household articles for her and hence, she had given her mobile number to the Applicant. She has stated that they would often talk to each other. She has alleged that in April, 2016, the Applicant disclosed his affection for her. According to the Complainant, on 21.04.2016, she was alone at home. She has stated that the Applicant came in the night, apologized to her for sending objectionable messages and stated that he would not send her

those messages. She has stated that the Applicant had forcible intercourse with her on the said date against her wish. The Applicant is alleged to have also threatened to kill her and her children, if she disclosed the same to anyone. She has stated that the Applicant would give her missed calls, and when her husband left home for work, she would call the Applicant on his mobile, pursuant to which, the Applicant would visit her house and have physical relations with her, against her wish. The Applicant is also alleged to have professed his love and is stated to have told her that he would marry her. Learned counsel for the Applicant has relied on several documents and Affidavit signed by the Complainant, wherein she has stated that she was having illicit relations with the Applicant and at no point of time the Applicant had compelled her to have physical relations with her. The said documents are disputed by the learned counsel for the

intervenor. Be that as it may, whether the documents were executed by her voluntarily or not, is a matter which will be decided by the trial Court.

6. In the peculiar facts of this, 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.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 & when called for** by the investigating officer till the filing of the charge-sheet or for a period of three months whichever is earlier;

(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 himself or through any other person.

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

8. In view of disposal of the Application, the Intervention Application does not survive and the same stands disposed of accordingly.

9. 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.)**