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Cri.Appeal-529-2017
Tuesday, 11.7.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 529 OF 2017

Siddik Samil Kazi

.....Appellant

V/s.

State of Maharashtra
(Through Yawat Police Station,
Pune)

.....Respondent

Mr. Prasanna Shahane i/by. Mr. Milind Deshmukh,
Advocate for the appellant.

Mr. H.J. Dedhia, APP for respondent, State.

CORAM :-

SMT. V.K. TAHILRAMANI, &

SANDEEP K. SHINDE, JJ.

DATE :-

11th JULY, 2017.

P.C. :-

1. Heard both sides.
2. The appellant has preferred this Appeal against

the order dated 6th June, 2017 passed by the Additional Sessions Judge-I, Baramati in Anticipatory Bail Application No. 277 of 2017, preferred by him seeking anticipatory bail in C.R. No. 309 of 2017 of Yawat Police Station, Pune. By the said order, the anticipatory bail application of the applicant in this case, came to be rejected.

3. It is the case of the complainant, who is 23 years of age and who belongs to schedule caste that two years prior to lodging the FIR, she had received a telephone call from an unknown person. Thereafter, she spoke to that person on many occasions. She came to know the name of the person talking on the phone i.e. the appellant. Thereafter, she became friends with the appellant. After two to three months, they met each other. Thereafter, they continued meeting each other frequently and their friendship turned into love. It is the case of the complainant that, the appellant told her that she wants to marry her. On 30th May, 2015 the appellant

came to her house to meet her. At that time, the parents and the brother of the complainant had gone out of station. The complainant and the appellant were chatting with each other and the applicant told her that he would marry her in two to three months and he raped her. Thereafter, also the complainant met the applicant on many occasions and he used to go to her village to meet her. She then started insisting on the appellant marrying her soon and on 13th May, 2017 when she asked the appellant as to when he would marry her, he abused her and told her that he would not marry her and also threatened her. On 14th May, 2017, she went to Yawat Police Station to lodge an FIR. However, she did not lodge the FIR. The appellant then gave Rs.1,60,000/- to her. However, she came home and tore the money and thereafter she lodged the complaint against the appellant on 16th May, 2017.

4. On going through the complaint, it clearly appears to be a case of consensual sex. The complainant

was 21 years of age when the first incident occurred. She was old enough to know the nature and consequences of her act. Though according to her the appellant committed rape on her on 30th May, 2017, even thereafter, she continued to meet the appellant. It clearly shows that, it was a case of consensual sex and only because the appellant refused to marry her, she has lodged an FIR against the appellant. On 13th May, 2017 the appellant told her that, he would not marry her. She accepted the money from the appellant and on 16th May, 2017 she lodged a complaint against the appellant. This delay in lodging the FIR also raises serious doubt about the genuineness of the complaint. Looking to the above facts, we are inclined to grant anticipatory bail to the applicant. Hence, the following order :

O R D E R

(i) In the event of arrest of the appellant, he be released on bail in the sum of Rs.30,000/- (Rs. Thirty Thousand only) with one/or two sureties to make up the said amount.

(ii)The appellant shall attend Yawat Police Station everyday from 18th July, 2017 to 31st July, 2017 from 11 a.m. to 1.00 p.m. Thereafter, the appellant shall report to Yawat Police Station as and when required by the Investigating agency.

(iii)The Appeal is allowed in above terms.

(SANDEEP K. SHINDE, J)

(SMT. V.K. TAHILRAMANI, J)