

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1433 OF 2016

Suraj Waman Devare.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Ms. V.S. Jagdali i/b. Ms. Geetanjali U. Shinde, advocate for Applicant.

Mr. B.G. Tangsali, advocate for intervenor.

Ms. P.P. Shinde, APP for State.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : FEBRUARY 15, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused papers.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 6 of 2016 registered at Kelve Sagri Police Station on

22/6/2016 for offence punishable under section 376 and 420 of the Indian Penal Code.

3 It is the case of the prosecution that on 22/6/2016 Ms. X lodged a report at the police station alleging therein that initially she was working in Pentex Engineering. She had been for picnic alongwith her friends on 6/4/2010. One of her friend had introduced her to the present applicant. They had got acquainted with each other. The acquaintance had culminated into a love affair. They used to meet intermittently. According to the complainant, the present applicant had assured her that he would get married to her and on the said pretext had sexual intercourse with her. He had also taken several valuable articles as well as cash from the complainant on one or the other count. It also appears that a discordant note had struck between them after 13th May, 2016. He had borrowed the amount of Rs. 7,55,000/- from her. She had approached family counsellor and a notice was issued to the present applicant and he had appeared before the family counsellor. It appears from the record that they were not

compatible with each other and therefore, the applicant could not keep up his promise and hence, the complainant is constrained to lodge a report, on the basis of which Crime No. 6 of 2016 is registered for offence punishable under section 376, 420 of the Indian Penal Code.

4 The applicant herein has been protected by this Court vide order dated 19/8/2016. That there is no breach of conditions imposed upon the applicant. The learned Counsel for the applicant submits that the criminal prosecution is initiated due to some misunderstanding. The relations were consensual and hence, the applicant cannot be held liable for offence punishable under section 376 of the Indian Penal Code.

5 Taking into consideration the material collected in the course of investigation and the fact that the applicant was granted protection vide order dated 19/8/2016, this Court is inclined to confirm the

interim relief granted in favour of the applicant vide order dated 19/8/2016.

6 However, it is made clear that the observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for deciding application for quashing of FIR or discharge or at the time of trial.

7 Hence, following order is passed :

(I) The application is allowed on the same terms and conditions which are as follows :

(i) In the event of arrest of the applicant in C.R. No. 6 of 2016, He shall be released on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- with one or more local sureties in the like amount.

(ii) The applicant shall attend the concerned police station as and when called and cooperate with the investigating agency to the best of his capacity.

(iii) The applicant shall not tamper with the evidence and/or influence the witnesses.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)