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

ANTICIPATORY BAIL APPLICATION NO. 42 OF 2018

Rais Zahir Khan

..Applicant.

V/s.

The State of Maharashtra

..Respondent

Mr. Manoj Singh i/b MKS Legal Associates for applicant.

Mr. R.M. Pethe, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 10th JANUARY 2018.

P.C.:

1] The applicant is apprehending arrest in CR No. 523 of 2017 dated 19.11.2017 registered with Kandivali Police Station, Mumbai under Sections 376(2)(n), 406, and 420 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant and the learned APP. Perused the papers of investigation.

3] The first information report is lodged by Smt. Sobha Deepak Dhami, aged about 21 years. It is stated in the report that, the first informant is the friend of Miss. Gajala Parvin Khan, the daughter of the applicant. That the first informant is married to Shri Deepak Dhami and she had been to her parent's house at Mumbai for celebrating festival of

Navratri. It is alleged that on 27.9.2017 when the first informant had been to meet her childhood friend Miss Gajala Parvin Khan, the applicant was present in the house. He informed the first informant that he is publishing one newspaper namely “Khaki Vardi” which is a police newspaper and that he has good acquaintance with higher authorities thereto. That Miss Gajala left the house for attending her tuition/class and the applicant was present in the house. That the applicant thereafter by giving promise of marry with the first informant, committed an act as contemplated under Section 376 of Cr. P.C. It is further alleged that, the applicant thereafter by extending promise to marry forced the first informant to have physical relationship with him. It is categorically alleged that the applicant by giving false promises, induced the first informant to part with her ornaments amounting to Rs.55,000/-. That when the first informant enquired with the applicant about performing the marriage, the applicant threatened her that he is a press-reporter and by publishing news against her, will spoil her life. The applicant thereafter continuously by exploiting the situation, committed rape on the first informant. In the premise the first information report is lodged.

4] The learned Counsel for the applicant submitted that, the act as contemplated under Section 376 of Cr. P.C. was a consensual act between two adult persons. That the applicant by taking undue advantage of the situation, has taken away the gold ornaments of the first informant is baseless allegation and no such incident had taken place. That the applicant is a journalist and it would not be expected that such person would commit a crime. He therefore submitted that the applicant may be granted pre-arrest bail.

5] It is to be noted here that, the first information report clearly inspires a confidence in the mind of this Court and at this stage there is no necessity for any further corroboration. It is well settled position of law as has been enumerated by the Hon'ble Supreme Court in the case of Aman Kumar And Anr vs State Of Haryana reported in AIR 2004 SC 1497, that the prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. That there is no rule of law that her testimony cannot be acted without corroboration in material particulars. She stands at a higher pedestal than an injured witness. The same view is further expressed by the Supreme Court in the case of State of Himachal Pradesh Vs. Shree Kant Shekari [AIR 2004 SC 4404].

In the present case, the first information report and the statement of the victim appears to be trustworthy and reliable. The ornaments of the victim taken away by the applicant are yet to be recovered. The applicant by giving false promise and extending threats has committed the alleged offence against the informant.

6] In view of the above and after taking into consideration the heinous nature of crime, the serious allegations against the applicant, and the gravity of the offence, this Court is of the view that, the applicant does not deserve to be protected by pre-arrest bail.

The application is accordingly rejected.

(A.S.GADKARI, J.)