

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

**ANTICIPATORY BAIL APPLICATION NO.156 OF 2018**

|                          |      |            |
|--------------------------|------|------------|
| Somesh Bhaskar Zaware    | .... | Applicant  |
| <u>Vs.</u>               |      |            |
| The State of Maharashtra | .... | Respondent |

Mr. Ujwal Agandsurve i/by Ms. Bhavana Kichi for the Applicant.  
Mr. S.R. Agarkar, APP for the State.

***Coram : Smt. Sadhana S. Jadhav, J.***  
***Date : 14<sup>th</sup> February, 2018***

P.C.:

1            Heard the learned counsel for the applicant and the learned APP.

2            This is an application under Section 438 Code of Criminal Procedure. The applicant herein is apprehending his arrest in Crime No. 144 of 2017, registered at Kamothe Police Station, Navi Mumbai, for the offences punishable under Sections 376, 417, 323, 328, 504 and 506 read with 34 Indian Penal Code.

3            It is the case of the prosecution that on 7<sup>th</sup> October 2017, Ms. "X" lodged a report at the police station alleging therein that her friend Ujwala Jagdale had suggested proposal of the present

applicant, who is about 28 years old. The parents of the applicant had been to see her in the month of August 2017. In order to get acquainted with each other, the applicant and the complainant had even been to the hotel for lunch. The applicant had visited the house of the complainant in drunken condition. When he realised that the complainant was alone at home, he solicited sexual relation from her. He had gagged her mouth and ravished her forcibly. That subsequently, the applicant had refused to marry the complainant. The complainant was also assaulted by the applicant.

4            Learned counsel for the applicant submits that the maternal aunt of the applicant had suggested the said proposal. When he realised that the complainant does not have a good character, he had refused to marry her. It is alleged that the complainant had disclosed to the applicant that she has been selected through M.P.S.C. and would soon get an appointment letter from the police department. In the present case, it is pertinent to note that the applicant is also being prosecuted in C.R. No.225 of 2017 registered at Navghar police station for the offence punishable under Section 354-B Indian Penal Code. There are such non-cognizable cases registered against him. Upon perusal of the papers of the investigation, it appears that the statement of victim is also recorded under Section 164 Cr.P.C. It is apparent on the face of the record this is not a consensual relationship. It is in these

circumstances, the applicant does not deserve the discretionary relief under Section 438 Cr.P.C.. The application being sans-merits stands rejected.

5           The observations made hereinabove are prima facie in nature and are restricted to the application under Section 439 Code of Criminal Procedure and the trial Court shall not be influenced by the same.

**( *Smt. Sadhana S. Jadhav, J* )**