

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 425 OF 2018
WITH
CRIMINAL APPLICATION NO. 479 OF 2018

Shamshuddin Chand Kazi	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Aniket Vagal, for the Applicant.
Mr. Ameet Palkar, APP for the State/Respondent.
Mr. Sayed Naqvi, for the intervener.

CORAM: A. S. GADKARI, J
DATED: 14th JUNE, 2018

PC:-

1. This is an application under Section 438 of Criminal Procedure Code for pre-arrest bail in CR No.439 of 2017 dated 9th September, 2017 registered with Goregaon Police Station, Mumbai under Sections 354(A), 504 of Indian Penal Code.

Heard the learned Counsel for the applicant, the learned Counsel for the first informant at greater length and the learned APP. Perused the record of investigation.

2. The record indicates that the first information report is lodged by the prosecutrix aged about 38 years alleging the offence under Sections 354(A) r/w 504 of Indian Penal Code. The applicant was immediately arrested by police on 12th September, 2016 and was produced before the Magistrate on the same day. The learned Magistrate was pleased to release the applicant on bail. The record further indicates that the first informant thereafter gave a supplementary statement to the police narrating the fact for adding Section 376 of Indian Police Code to the present case. The record further indicates that at the request of the first informant, her statement under Section 164 of the Cr.P.C. has also been recorded by the learned Judicial Magistrate, First Class, 54th Court, Mazgaon, Mumbai, on 1st February, 2018 wherein no allegation as contemplated under Section 376 has been made. In view thereof, it is very difficult at this stage to accept the allegation as contemplated under Section 376 of Indian Penal Code levelled by the first informant against the applicant in her supplementary statement.

3. In view of the above, the applicant is entitled to be protected by pre-arrest bail.

Hence the following order.

(i) In the event of arrest in CR No.439 of 2017 registered with Goregaon Police Station, Mumbai under Sections 354(A), 376, 504 of Indian Penal Code, the Applicant be released on bail on his furnishing P.R. bond of Rs.15,000/- with one or two local sureties in the like amount.

(ii) The Applicant shall not contact the prosecutrix and shall not tamper with the evidence and/or influence the prosecution witnesses.

4. Application is allowed in aforesaid terms.

5. In view of order passed in Anticipatory Bail Application No.425 of 2018, Criminal Application No.479 of 2018 does not survive and is accordingly disposed off.

[A. S. GADKARI, J.]