

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

ANTICIPATORY BAIL APPLICATION NO. 912 OF 2018

Akash Mahadevrao AwatiApplicant

V/s.

The State of MaharashtraRespondent

WITH

CRIMINAL APPLICATION NO. 734 OF 2018

IN

ANTICIPATORY BAIL APPLICATION NO. 912 OF 2018

Taramati Subhash MatiwadeIntervenor

In the matter between :-

Akash Mahadevrao AwatiApplicant

V/s.

The State of MaharashtraRespondent

Mr. Meghashyam Kacharekar for the applicant.

Mr. Piyush Toshniwal I/b. Aashish Satpute for the intervenor.

Mr. Ajay Patil, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 09th OCTOBER, 2018.

P.C.:

. This is an application for anticipatory bail under section 438 of Criminal Procedure Code, filed by the aforesaid applicant, apprehending his arrest in C.R.No.146/2018 registered with Karveer Police Station, District Kolhapur for offences punishable under sections 376, 506 of the Indian Penal Code.

2. Heard Mr. Meghashyam Kacharekar, learned counsel for the

applicant, Mr. Piyush Toshniwal, learned counsel for the intervenor and Mr. Ajay Patil, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The aforesaid crime was registered pursuant to the first information report lodged by the prosecutrix who is 33 years of age. A perusal of the said first information report prima facie reveals that the applicant was known to the prosecutrix since the year 2016. The prosecutrix had accompanied the applicant to several places. They have lived in different hotels and resorts and had sexual relationship. The prosecutrix had stated that while they were in one of the resorts, the applicant had taken her semi nude photographs on his mobile phone. In January, 2018, the applicant proceeded to Bangalore. The prosecutrix used to visit him in Bangalore and used to have physical relationship with him. The first information report reveals that in the month of March, 2018, the applicant told the prosecutrix that he is unable to marry her. She claims that the applicant had threatened to kill her and would defame her if she were to raise the issue of marriage.

4. As stated earlier, the prosecutrix is a 33 year old lady. The

material on record prima facie reveals that the applicant was known to her and that her relationship with the applicant was consensual and hence, prima facie the same does not constitute rape within the meaning of section 375 of the Indian Penal Code. It is also to be noted that by order dated 03/05/2018, the applicant was granted interim bail. He was directed to report to the Police Station from 09/05/2018 for a period of one week and was also directed to produce his mobile phone with sim card No.9964258553. Mr. Mahesh Kacharekar, learned counsel for the applicant submits that he has complied with the said condition. This fact is not disputed by the learned APP. It is thus evident that the presence of the applicant is no longer required for the purpose of investigation, much less custodial interrogation.

5. The applicant is a Doctor by profession and is employed at St. John Medical College at Bangalore. The applicant has roots in the society and there is no possibility of the applicant absconding and/or thwarting the course of justice. The applicant has no criminal antecedents. Considering the above facts and circumstances, the applicant is entitled for pre-arrest bail. Hence, the Application is allowed on following terms and conditions :-

(a) In the event of arrest of the applicant in C.R.No.146/2018

registered with Karveer Police Station, District Kolhapur, he shall be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount to the satisfaction of the Investigation Officer. One of the sureties shall be local surety.

(b) The applicants shall remain present before the Investigation Officer from 15/10/2018 for a period of four days and further as and when required by the Investigation Officer for the purpose of interrogation/investigation.

(c) The applicant shall furnish his permanent and temporary address, if any, and his contact details to the Investigation Officer.

(d) The applicant shall not change his residential address without prior intimation to the Investigation Officer.

(e) The applicant shall not interfere with the prosecutrix and other witnesses in any manner.

6. Intervention Application does not survive and the same is disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)