

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

ANTICIPATORY BAIL APPLICATION NO.1208 OF 2018

Santosh Namdeo Dipke

... **Applicant**

V/s.

The State of Maharashtra

... **Respondent**

Mr. Sunny Waskar, Advocate for the Applicant.

Mr. M.G. Patil, APP for the Respondent State.

CORAM : A.S.GADKARI, J.

DATE : 22nd JUNE 2018

P.C.:

1. The applicant is apprehending arrest in CR No.136/2018 dated 24.04.2018 registered with M.H.B. Colony Police Station, Mumbai under Sections 376(n), 313, 420 of the Indian Penal Code.
2. Heard the learned counsel for the applicant and the learned APP. Perused the record of investigation.
3. The prosecutrix is aged about 32 years and is a divorcée. She has a daughter aged about 13 years from her earlier wedlock.

It is the prosecution case that, after she divorced from her husband, she started residing at her mother's place. The applicant is the friend of her brother. The acquaintance of prosecutrix with applicant blossomed into love affair and since the year 2010 there

were physical relationship between the prosecutrix and the applicant upto 9.4.2018. It is alleged that the applicant by giving promise to marry with the prosecutrix, established physical relations with her and subsequently decided to marry with another woman on 06.05.2018. The wedding card to that effect was printed by the applicant. It is alleged that due to the said relations, the prosecutrix got pregnant in the year 2015 and after the said information, applicant gave her certain tablets causing termination of her pregnancy and in the premise, the present crime is registered.

4. A bare perusal of the first information report would indicate that, the prosecutrix was a consenting party to the alleged act as contemplated under Section 376 of the Indian Penal Code against the applicant. It further appears that, it is only when the first informant resiled from the promise to marry with the prosecutrix and decided to perform marriage with another woman, the present crime is registered.

5. As noted earlier, the prosecutrix was major even on the first date of alleged occurrence of the said offence. In the present crime, nothing is to be recovered at the instance of the applicant.

In view of the peculiar facts and circumstances of the case, this

Court is of the view that the custodial interrogation of the applicant is not necessary for the further investigation of present crime and the applicant deserves to be protected by pre-arrest bail.

6. Hence, the following order.

a) In the event of arrest in CR No.136/2018 dated 24.04.2018 registered with M.H.B. Colony Police Station, Mumbai, the applicant shall be released on bail on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.

b) The applicant shall attend the Investigating Officer as and when called for between 10.00 a.m. to 1.00 p.m. and to join the process of investigation till filing of final report.

It is made clear that before calling the applicant to the police station, the concerned Investigating Officer shall issue a notice under Section 160 of the Cr.P.C.

d) The applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

7. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)