

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

ANTICIPATORY BAIL APPLICATION No. 1258 OF 2018

Phakirappa Shetteppa Durgamurgi and Ors. ...Applicants

Vs.

The State of Maharashtra

...Respondent

Mr. Rajkumarlaxman A. Rajhans for Applicants

Mr. S.S. Pednekar -APP

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JUNE 28, 2018

P.C.

1. Heard. This application is filed under section 438 of the Criminal Procedure Code.
2. The Applicants are apprehending their arrest in Crime No. 212 of 2017 registered at Chandagad Police Station initially for the offence punishable under section 363 of the Indian Penal Code. Subsequently, they are charged under section 366 (A), 376 r/w. 34 of the Indian Penal Code and section 2 and 3 of Prevention of Child Marriage Act, 1978.
3. The learned counsel for the Applicants submit that Applicant No.1 is

arrested and hence, prayer for pre-arrest bail as far as Applicant No.1 is concerned, has become infructuous.

4. It is the case of the prosecution that the prosecutrix Ms.'X' who happens to be 13 years' old was in love with one Mashappa Bangarappa Durgamurgi. Her father is a labourer and her mother is collecting scrap. That they were in love and Mashappa had proposed to marry her. Mashappa had taken her away from the custody of her parents and had got married to her with her consent at M.K. Hubli of Belagavi, Karnataka State. That the present Applicants were present at the band of marriage and had aided and assisted Mashappa to get married with prosecutrix. Thereafter, Mashappa and victim had travelled from one place to other place and when they returned to M.K. Hubli of Belagavi, Karnataka State, they were apprehended by the police. The statement of victim has been recorded.

5. Perused the papers of investigation. There are no specific allegations against the present Applicants. In view of this, the Applicants deserve to be granted pre-arrest bail. The observations are prima facie in nature and restricted only for the application under section 438 of Cr.P.C. and shall not be considered for quashing of FIR, discharge application or at the time of trial. Hence, the following order:

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, the Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each and one or more solvent sureties in the like amount.
- (iii) The Applicants shall report to the concerned police station on every Wednesday and Sunday till the supplementary charge-sheet is filed.

[SMT. SADHANA S. JADHAV, J.]