

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

**ANTICIPATORY BAIL APPLICATION NO.1314 OF 2018**

Ramesh Motiram Dhanawade .... Applicant

Vs.

The State of Maharashtra & Ors. .... Respondent

Mr.S.M. Gorwadkar, Senior counsel I/by Mr.Sujay Hemant Gangal  
for the Applicant.

Mr.Prashant Mohan Patil, for Respondent No.2.

Mr. Prashant Jadhav APP for the State.

Coram : *Smt. Sadhana S. Jadhav, J.*

Date : *2<sup>nd</sup> August 2018*

P.C.:

1            Heard the learned counsel for the applicant, the learned  
counsel for Respondent No.2 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.31 of 2018, registered at Kolad Police Station, for the offence  
punishable under Section 376 of the Indian Penal code

3            It is the case of the prosecution that the applicant happens to  
be the Police Patil of Village Pahur. That he had come into contact with

the first informant Smt.Shraddha Sharad Shinde. She is a mother of two daughters aged about 18 years and 12 years old. She is a divorcee. That, they had intimate relations so much that the applicant was residing with her on several occasions. The intimacy between them was known to all the family members as well as to her daughters. The applicant used to make expenses for the daughters of the first informant. That the first informant has started residing at Thane.

4           It is alleged in the First Information Report in March 2017 the applicant had informed the first informant that his relations with his wife are not cordial and therefore he intends to get married to her. They were to get married on 24<sup>th</sup> April 2018. Till 27<sup>th</sup> April 2018 the applicant was visiting the first informant. On several occasions thy had consensual sex.

5           It is alleged that the Applicant had sent obscene messages to the Complainant. He had also promised to get married to her. However, subsequently since his family learnt about the intimate relations, he had refused to marry her and hence the First Information Report.

6           The learned counsel for the intervener submits that the first informant had consented for consensual sex only because the applicant had promised to marry her and there has been a breach of the promise. The applicant continues to be a married man, and therefore he cannot be granted pre-arrest bail.

7           As against this, the learned counsel for the applicant submits that the applicant has not misused his position as a Police Patil, but he was genuinely in love with the first informant and therefore, he was taking care of the first informant and her two daughters and that her daughters were also happy with him. It is submitted that even if there was no marriage, the applicant was looking after the family of the first informant after she had taken divorce from her husband.

8           The messages have been downloaded by the investigating agency which were sent to the first informant. The learned APP fairly submits that by then the first informant had deleted the reply given by her to the said messages or even prior to that.

9           Taking into consideration the relationship between the parties

and the fact that the first informant is residing at Thane, whereas, the applicant is residing in Taluka Roha, the applicant deserves for pre-arrest bail as in the present case the custodial interrogation of the applicant would not be imperative.

10           It is made clear that the observations are restricted to an application under Section 438 of the Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of First Information Report, discharge application or at the time of trial. Hence, the following order :

ORDER

- i )           By way of ad-interim relief, in the event of arrest, the applicant be enlarged on bail on furnishing P.R. bond of Rs.50,000/- with one or two solvent sureties in the like amount.
  
- ii)           The applicant shall not enter Thane District till conclusion of trial and shall not leave Taluka Roha till filing of charge-sheet.
  
- iii)          The applicant shall surrender his cell phone to the Investigating Officer.

iv )           The applicant shall report to the concerned police station from 8<sup>th</sup> August 2018 to 13<sup>th</sup> August 2018 between 10.30 a.m. to 1.00 p.m. and co-operate with the investigating agency.

v)             Application is allowed in above terms and disposed off.

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