

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

ANTICIPATORY BAIL APPLICATION NO.1326 OF 2018

Irfan Iqbal Dedrani ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Akhilesh Dubey with Mr. Uttam Dubey I/b. M/s. Law Counsellors
for the Applicant.

Ms Pallavi N. Dabholkar, APP for the Respondent -State.

Mr. Ramesh Tripathi with Mr. Ninad Shinde I/b. Ms Rupali M.
Jamdade for the Intervenor.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th OCTOBER, 2018.

P.C.:-

This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant, apprehending his arrest in C.R. No.111 of 2018 registered with Taloja Police Station, District-Navi Mumbai, for offences punishable under Sections 323, 376(2) (n), 417, 504 and 506 of the Indian Penal Code, 1860.

2. Heard Mr. Akhilesh Dubey, the learned counsel for the Applicant and Ms Pallavi N. Dabholkar, the learned APP for the Respondent -State. I have perused the records and considered submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by the prosecutrix, who had claimed to be 27 years of age. The records prima facie indicate that the first informant is 39 years old and that she is a divorcee. The prosecutrix was in live-in-relationship with the Applicant since 2013 and that she had consensual sexual relations with him from 2013 till 2018. The records prima facie reveal that the FIR has been lodged only after the Applicant had refused to marry the prosecutrix. Suffice it to say that consensual relationship between two adults cannot be construed as rape within the meaning of Section 375 of the IPC. In such circumstances, the question whether refusal to marry amounts to cheating is a question, which will have to be considered on merits of the matter.

4. The Applicant was granted interim bail by order dated 11th July, 2018 and he was directed to report to the investigation officer for the purpose of interrogation. The learned counsel for the Applicant submits that the Applicant has complied with the said condition. It is thus evident that presence of the Applicant is no longer required for the purpose of investigation and interrogation. The Applicant is a permanent resident of Kharghar, hence, there are no chances of his absconding or fleeing from justice. The Applicant has no criminal

antecedents.

5. Considering the above facts and so also the nature of allegations levelled against the Applicant, in my considered view this is not a case which would justify custodial interrogation. Hence, the application is allowed on following terms and conditions:

- (i) In the event of arrest of the Applicant in C.R. No.111 of 2018 registered with Taloja Police Station, District-Navi Mumbai, the Applicant shall be released on bail on furnishing bail bonds of Rs.50,000/- with one or two solvent sureties in the like amount.
- (ii) The Applicant shall furnish his permanent as well as temporary address, if any, and his contact details to the concerned investigation officer.
- (iii) The Applicant shall not change his residential address without prior intimation to the concerned investigation officer.
- (iv) The Applicant shall not interfere with the witnesses in any manner

(SMT. ANUJA PRABHUDESSAI, J.)