

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1366 OF 2018

Babu Nasibu Tyagi vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Raja Thakare i/by Mr. Prasthamesh Samant for the
Applicant.

Mrs. Rutuja Ambekar, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 12th July, 2018

P.C.

1. This is an application under Section 438 of the
Cr.P.C. for pre-arrest bail in CR NO.137/2018 dated
12.6.2018 registered with Aarey Police Station, Mumbai
under Sections 376, 323, 504, 506 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 was aged about 31 years on the
date of lodgment of the present crime. Perusal of the FIR
would indicate that the applicant and the first informant
were having relations since December 2016 till May, 2018.

It further prima facie appears that the informant was a consenting party to the act as alleged under Section 376 of the Indian Penal Code against the applicant.

4. Mr. Thakare, learned counsel appearing for the applicant submitted that the applicant and the first informant were having 'live and relationship'. That the applicant had also advanced substantial payment to the first informant for her business purpose and when the first informant failed to repay the amount he initially issued a notice dated 11.6.2018 for repayment of the said amount and/or pertaining to their inter-se business transaction and therefore, the informant has lodged the present crime on 12.7.2018.

4. The record further indicates that, the first informant after the first alleged sexual assault did not lodge the complaint with the police and continued to have physical relations with the applicant till May, 2018 and it is only after the aforestated notice issued by the applicant on 11.6.2018, the present crime is registered.

5. In view of the above, the applicant deserves to be

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protected by pre-arrest bail.

Hence, the following order.

- a) In the event of arrest in CR No.137/2018 dated 12.6.2018 registered with Aarey 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 11.00 a.m. to 1.00 p.m. upon receipt of a notice under Section 160 of CR.P.C. and to join the process of investigation till submission of the final report.
- c) The applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- d) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)