

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

ANTICIPATORY BAIL APPLICATION NO.1181 OF 2017

Tejas D. Sawargaonkar

... Applicant

V/s.

The State of Maharashtra

... Respondent

WITH

CRIMINAL APPLICATION NO.723 OF 2017

Kavita Shivaji Chawhan

....Complainant/Intervener

In the matter between

Tejas D. Sawargaonkar

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Nilesh Pawaskar, i/by Ms. Geetanjali Shinde for the Applicant.

Mr. P.N. Dabhokar, APP for the Respondent State.

Mr. Iqbal Shaikh for the Intervener.

CORAM : A.S.GADKARI, J.

DATE : 22nd JANUARY 2018

P.C.:

1. By an Order dated 11.07.2017 the applicant was granted interim relief.

2. Heard Mr. Pawaskar, the learned Counsel appearing for the applicant, Mr. Iqbal Shaikh, the learned Counsel appearing for the

intervener and the learned APP. Perused the record of information.

3. The first information report is lodged by Smt. Kavita Chawhan, aged about 34 years. It is alleged that, though the applicant was 4 years younger than the informant in age, the applicant by giving promise to marry, established physical relationship with her since 14.02.2008 upto 16.02.2017. During the said long tenure of relationship, the informant got pregnant on four occasions, and therefore, the applicant forced her to undergo medical termination of pregnancy. It is alleged that, subsequently in February 2017 the applicant resiled from his promise to marry and in the premise, the first information report is lodged.

4. A perusal of the first information report would indicate that, the first informant was major when she entered into relationship with the applicant. It further prima-facie appears that, the act as alleged under Section 376 of Indian Penal Code was a consensual act between two adult persons. The Investigating Officer has recorded the statements of concerned doctors, who have stated that the first informant approached them with a name Mrs. Kavita Tejas Sawargaonkar and requested the concerned doctors for performing abortion. That, the first informant has

signed consent form for the same in her own handwriting. It further appears from the record that, on two occasions the applicant was not accompanying the informant and she alone had been to the concerned doctors. Thus, prima-facie it appears that, the first informant at her own will approached the concerned doctors with request for medical termination of pregnancy and therefore, at this stage it is little difficult to accept the allegation as contemplated under Section 313 of Indian Penal Code.

5. In view of the above and after taking into consideration the peculiar facts of the present case, the applicant deserves to be protected by pre-arrest bail.

6. Interim relief granted by an Order dated 11.07.2017 is hereby confirmed. However, the condition to attend the concerned police station is waived.

7. Application is allowed in the aforesaid terms.

In view of the Order passed in ABA/1181/2017, the application for intervention bearing APPP/723/2017 does not survive and is accordingly disposed off.

(A.S.GADKARI, J.)