

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

**ANTICIPATORY BAIL APPLICATION NO. 1698 OF 2017**

Abhishek Devidas Supekar. ... Applicant.  
Versus  
The State of Maharashtra & anr. ... Respondents.  
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Ms. Prabha U. Badadare, advocate for Applicant.

Mr. S.H. Yadav, APP for State.

Complainant in person present in the court.

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**CORAM : SMT.SADHANA S. JADHAV,J  
DATE : FEBRUARY 12, 2018**

**P.C.:**

1 Heard the learned Counsel for the applicant and the learned  
APP for State.

2 This is an application under section 438 of the Code of Criminal  
Procedure, 1973. The applicant herein is apprehending his arrest in  
Crime No. 223 of 2017 registered at Narayangaon Police Station,  
Pune(Rural) for offence punishable under section 376, 323, 506 of

the Indian Penal Code. The provisions of Protection of Children from Sexual Offences Act, 2012 was added subsequently.

3 It is the case of the prosecution that on 3/8/2017 Ms. X lodged a report at the police station alleging therein that the applicant was also residing in Shivvihar Society of which she is resident. Ms. X is aged about 19 years. They had got acquainted with each other. That she was going for her practice in playing drums in Shriram Yuva Manch in Shriram Chowk. The applicant had allegedly called upon her and expressed his love upon her. They were chatting with each other on face book as well as on the respective cell phone. He had lured her. He was insisting upon her to get married to him. On 8/12/2015 when she was alone at home, he had been to her house to meet her and under the pretext of marriage had sexual intercourse with her. Time and again they had sexual intercourse. That subsequently on 29/7/2017 he had called her home and had assaulted her and had sexual intercourse with her. She was scared of her parents and therefore, had not informed about it to anybody and

finally had disclosed the same to her aunt Anjali Bagale and thereafter, they had approached police station and lodged report.

4 Perused the papers of investigation. The date of birth of the first informant is 26/5/1999. In the course of investigation, investigating agency has recorded statement of one Chetan Karnawat. He has disclosed that the intimacy between the applicant and the first informant was known to the town. On several occasions the applicant was seen driving as pillion driver on the two wheeler of the first informant. It has also transpired from the statement of several witnesses that the applicant was visiting the house of the first informant on several occasions and had called her to his house only once. The statement of the mother of the first informant was recorded. According to her, on 31/7/2017 her daughter was crying. Upon enquiry her daughter had disclosed that the present applicant had sexual intercourse with her on several occasions and had threatened her of dire consequences in the eventuality she disclosed it to anybody. They had sexual intercourse as they were to get married but on that day he had refused to marry her. The mother of the first

informant has also disclosed that the applicant used to visit their house quite often and at that time, they had disclosed that the applicant was treating first informant as sister. According to the first informant, it was due to threat of the applicant that she had misled her parents. Thereafter, on 2/8/2017 mother of the first informant had met the present applicant and enquired with him as to why he is not willing to marry the first informant. At that time, he had disclosed that he considers first informant as sister and therefore, does not wish to get married to her. Similarly her aunt has disclosed that they were all under impression that the relations between the first informant and the applicant was that of brother and sister. He had refused to marry her and therefore, the first information report is lodged. It appears to be a case of love affair.

5 The learned Counsel for the applicant had submitted that there is every possibility that the applicant would get married to her. He has just passed out his Engineering and therefore, the first informant was arraigned as respondent No. 2. Notice was served upon her. She

is present in the court. She has candidly submitted that at this stage, she is not interested in getting married to the present applicant.

6 The medical records also show that she has disclosed to the doctor that “history of rape by a friend”. It appears to be a case of intimacy between two young people. Since a discordant note had struck between them, first information report is lodged. There is no material to show that the first informant was assaulted by the applicant. The mother of the first informant has also not disclosed that she had complained to her mother at any point of time that she had been assaulted by the applicant.

7 Taking into consideration the papers of investigation, this Court is of the opinion that the applicant deserves to be granted pre-arrest bail.

8 However, observations made hereinabove are restricted to the application under section 438 of the Code of Criminal Procedure,

1973 and shall not be taken into consideration for the purpose of quashing of FIR or discharge application or at the time of trial.

9 Hence, the following order is passed :

**ORDER**

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 223 of 2017 registered at Narayangaon Police Station, the applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.
- (iii) The applicant shall not contact first informant and shall not reside in the Narayangaon till conclusion of the trial.
- (iv) The applicant shall not tamper with the evidence.

10 The application is disposed of accordingly.

**(SMT. SADHANA S. JADHAV,J)**