

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1883 OF 2018

Kashif Mohd. Arif Shaikh, Age 23 years,
Occ.Service, R/o.R.No.13, Azmi Compound,
Khairani Road, Sakinaka, Andheri (E),
Mumbai-400 058.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Niranjan S. Mundargi I/by Randhir Singh for applicant.

Mr.R.M.Pethe, APP, for State.

Mr.Nilesh Dhamane, PSI, Amboli Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 17th September 2018

PC :

1. The applicant is apprehending arrest in connection with CR No.314 of 2018 registered with Amboli Police Station for offences under Sections 376(2)(n), 315, 420 and 506 of Indian Penal Code.

2. The case of prosecution in brief is that the informant is residing at Dharavi along with her parents. She is working in I.D.Fresh Food Company as sales girl. The applicant was also working as supervisor in the said company. They were acquainted with each other since July-2017. The applicant insisted that she should love him or else she would be removed from job. In October-2017 the applicant called the informant at Infinity Mall, Andheri. They went to theatre. They had booked tickets of gold sleeping seat. The applicant had sexual intercourse with complainant against her

wish. He also promised her of marriage. The applicant was pregnant. The applicant advised the complainant to eat Papaya fruit and after consuming the same, she had aborted. The FIR was lodged on 14th July 2018. Learned counsel for applicant submits that the relationship was consensual. From the tenor of FIR it is apparent that the complainant has consented for the relationship. The custodial interrogation of applicant is not necessary. The complainant was aged about 19 years at the time of lodging the FIR.

3. Learned APP submitted that the applicant was supervisor in the company where the victim was working as sales girl. She comes from poor family. The applicant took undue advantage of the situation and on account of financial constraints, she was forced to submit to the demands of applicant. It is submitted that the applicant had exercised coercion inducing the complainant to have physical relationship with him. She was pregnant and undergone abortion. The conduct of the complainant and circumstances in which she was made to suffer is required to be taken into consideration.

4. I have perused the FIR. Admittedly the complainant and the applicant were acquainted with each other being employees of the company. It is alleged that the applicant had threatened the complainant that she would be removed from job. The applicant was working as supervisor and was not owner of the company where the complainant was working. The text messages pointed out by learned APP indicate that the complainant was reluctant to have physical relationship. However, it is pertinent to note that in October-2017 she had visited Infinity Mall along with applicant and allegedly in the

theatre they had physical relationship. She has also stated in the FIR that thereafter on several occasions they had visited the same place and had sexual relationship. In the light of aforesaid factual aspects, custodial interrogation of the applicant is not necessary. Both of them were acquainted with each other and had sexual relationship on several occasions. At this stage it is not necessary to appreciate the nature of evidence and make further observations on the nature of relationship of the applicant and complainant and merits of the case.

5. In the aforesaid circumstances, case for grant of anticipatory bail is made out. Hence, I pass following order :

ORDER

- (i) Criminal Anticipatory Bail Application No.1883 of 2018 is allowed and disposed off;
- (ii) In the event of arrest of applicant in connection with CR No.314 of 2018 registered with Amboli Police Station, Mumbai, the applicant be released on bail on furnishing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the investigating officer of Amboli Police Station, Mumbai once in a week on every Friday between 10 am and 12 noon till filing of charge sheet or for a period of three months, whichever is earlier;
- (iv) The applicant shall not tamper with evidence.

(PRAKASH D. NAIK, J.)