

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1950 OF 2018

Mikhail Chandrashekhar Kadepurkar,
Age 26 years, Occ.Service, R/o.Flat No.11,
Building No.24/B, Akashganga CHS,
Plot No.6, NNP, Goregaon (East),
Mumbai.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Mohan Khatavkar for applicant.

Mr.A.R.Kapadnis, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 26th September 2018

PC :

1. This is an application for anticipatory bail in connection with CR No.413 of 2018 registered with Dindoshi Police Station, Mumbai for offences under Section 376(n) of Indian Penal Code. The applicant preferred an application for anticipatory bail before the Sessions Court, which was rejected on 6th September 2018.

2. In brief the prosecution case is that the complainant had an affair with applicant for about last two years. The complainant is a major woman aged about 27 years. The applicant had allegedly promised her to marry her and on the basis of said promises, she had developed physical relationship with applicant on number of occasions at residence and other places. However, the accused kept on evading marriage. Thus, the applicant had sexually assaulted the complainant under the pretext of marriage.

3. I have perused the FIR and the text messages exchanged between the parties. From the FIR it can be seen that the complainant was acquainted with applicant, who used to visit the shop where the complainant was employed as sales executive and developed friendship with her. In 2016 he had proposed the complainant. Thereafter the accused had approached the family of complainant with his parents and she was also introduced to his family members. In 2017 the accused had called the complainant to his house and at that time there was physical relationship between them. The complainant was reluctant to do so. However, accused had persuaded her under the pretext of marriage to have physical relationship. Thereafter on three to four occasions they had visited the lodge at Gorai and there was physical relationship between them. Subsequently even in June-2018 they had visited a resort at Arnala and had sexual relationship. Subsequently there were quarrels and the accused had refused to marry her.

4. On going through the contents of FIR, it appears that relationship was consensual. The complainant is a major woman having understanding. It appears that their relationship was approved by their families. However, as alleged, the applicant has subsequently backed out from his promise.

5. Learned APP submitted that false promises were made by applicant and under the pretext of marriage, the complainant was sexually assaulted by him. The applicant subsequently backed out from the promises and refused to marry the complainant.

6. Having considered the nature of allegations spelt out in the FIR, apparently physical relationship was consensual. No case for custodial interrogation is made out. The application, therefore, deserves to be allowed.

7. Hence, I pass following order :

ORDER

- (i) Criminal Anticipatory Bail Application No.1950 of 2018 is allowed and disposed off;
- (ii) In the event of arrest of applicant in connection with CR No.413 of 2018 registered with Dindoshi 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 report the investigating officer of Dindoshi Police Station, Mumbai once in a week on every Friday between 10 am and 12 noon till filing of charge sheet;
- (iv) The applicant shall not tamper with evidence.

(PRAKASH D. NAIK, J.)

MST