

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

ANTICIPATORY BAIL APPLICATION NO. 2084 OF 2018

Yogesh Bajrang DawaneApplicant

V/s.

The State of MaharashtraRespondent

Mr. Aaditya A. Gore for the applicant.

Mrs. J.S. Lohokare, APP for the State.

mr. Sandip Yele, API, Khed Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 09th OCTOBER, 2018.

P.C.:

. This is an application for anticipatory bail under section 438 of Criminal Procedure Code, filed by the aforesaid applicant, apprehending his arrest in C.R.No.293/2018 registered with Khed Police Station, District Pune for offences punishable under sections 376, 506 of the Indian Penal Code.

2. Heard Mr. Aaditya A. Gore, learned counsel for the applicant. He submits that the first information report does not disclose commission of an offence under section 376 of the Indian Penal Code. Mrs. J.S. Lohokare, learned APP submits that the applicant had sexual relationship with the prosecutrix under the promise of marriage.

3. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. The aforesaid crime was registered pursuant to the first information report lodged by the prosecutrix. The first information report prima facie reveals that the prosecutrix is a 22 years of age. She was friendly with the applicant. She has been accompanying the applicant to different places and it appears that they have been in sexual relationship since the year 2017.

5. The first information report has been lodged only when the applicant had refused to marry her. Prima facie, the relationship was consensual and does not amount to rape within the meaning of section 375 of the Indian Penal Code. Considering the above facts and circumstances, in my considered view, this case does not justify custodial interrogation. The applicant is employed with the Indian Navy and there are no chances of the applicant absconding and/or thwarting the course of justice. The applicant has no criminal antecedents.

6. Under the circumstances and in view of discussion supra, this is a fit case for grant of bail under section 438 of Criminal Procedure Code.

Hence, the Application is allowed on following terms and conditions :-

- (a) In the event of arrest of the applicant in C.R.No.293/2018 registered with Khed Police Station, District Pune, he shall be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.
- (b) The applicant shall remain present before the Investigation Officer on 15/10/2018 and 16/10/2018 between 11:00 a.m. to 02:00 p.m. and further as and when required by the Investigation Officer for the purpose of interrogation/investigation.
- (c) The applicant shall furnish his permanent and temporary address, if any, and his contact details to the Investigation Officer.
- (d) The applicant shall not change his residential address without prior intimation to the Investigation Officer.
- (e) The applicant shall not interfere with the complainant or other witnesses in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)