

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

ANTICIPATORY BAIL APPLICATION NO. 2119 OF 2018

Mahesh Laxman PatilApplicant

V/s.

The State of MaharashtraRespondent

Mr. Ganesh Rangayya for the applicant.

Mr. S.R. Agarkar, APP for the State.

Ms. Gulestan M. Dubash for the original complainant.

Mr. Zanjurne, API, Panvel Taluka Police Station, Navi Mumbai present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 26th OCTOBER, 2018.

P.C.:

. At the outset, learned counsel for the first informant/intervenor has brought to my notice that there is a typographical error in the appearance recorded in the order dated 12/10/2018 as the word “for the” is not typed after the name of the counsel who was representing the original complainant.

2. Hence, in the appearance of the order dated 12/10/2018 after the name “Ms. Gulestan M. Dubash” add the words “for the”. Necessary corrections be made in the order dated 12/10/2018.

3. Now coming to the merits, this is an application under section 438 of the Criminal Procedure Code filed by the aforesaid applicant,

apprehending his arrest in C.R.No.198/2018 registered with New Panvel Police Station, Navi Mumbai for offences punishable under sections 376, 506(2), of the Indian Penal Code.

4. Heard Mr. Ganesh Rangayya, learned counsel for the applicant, Mr. S.R. Agarkar, learned APP for the State and Ms. Gulestan M. Dubash, learned counsel for the intervenor. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

5. The aforesaid crime was registered pursuant to the first information report lodged by the prosecutrix. The prosecutrix claims that the applicant is her husband's friend and he used to visit her house very often. She has stated that the applicant had misbehaved with her and she had reported this to her husband. She claims that on 01/10/2018, the applicant had phoned her and threatened to circulate her obscene photos. The applicant called her to his house and threatened that he would kill her husband in the event she were not come. She has stated that she went to the house of the applicant in order to see the said photos and also to complain to the mother of the applicant about his conduct. She claims that the mother of the

applicant was not present in the house and taking advantage of this situation, the applicant committed rape on her.

6. The material on record also prima facie reveals that the prosecutrix had herself gone to the house of the applicant wherein she was allegedly raped by the applicant. Though she claims that the applicant had threatened her to circulate her obscene picture and to kill her husband, the records, particularly, the extracts of the telephonic conversation between the applicant and the first informant, prima facie indicate that the applicant and the prosecutrix were friendly with each other. Hence, the allegations of threat and rape prima facie appear to be doubtful.

7. The applicant was granted interim bail and in compliance with the order, he has already reported to the Investigation Officer and has been interrogated. The presence of the applicant is, therefore, no longer required for the purpose of investigation and/or interrogation. The applicant is a permanent resident of Kasalkand, Taluka Parnel and there are no chances of the applicant fleeing from justice. The applicant has no criminal antecedents.

8. Considering the above facts and circumstances and particularly

the nature of the allegations levelled, in my considered view, the applicant is entitled for pre arrest bail. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the applicant in C.R.No.198/2018 registered with New Panvel Police Station, Navi Mumbai, 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 as and when required and called 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 prosecutrix and other witnesses in any manner.

(SMT. ANUJA PRABHUDESSAI, J.)