

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

ANTICIPATORY BAIL APPLICATION NO. 2249 OF 2017

Vinayak Vithoba Gorule. ... Applicant.
Versus
The State of Maharashtra. ... Respondents.

Mr. S.V. Marwadi i/b. Mr. Pramod G. Kathane, advocate for Applicant.

Ms. P.P. Shinde, APP for State.

Mr. V.B. Patil, PSI, Devrukh Police Station, Ratnagiri.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 17, 2018**

P.C.:

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

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in C.R. Nos. 183 2017 registered on 1/12/2017 with Devrukh Police

Station, for offence punishable under section 376 and 500 of the Indian Penal Code.

3 It is the case of the prosecution that one Ms. X has lodged a report at the police station on 1/12/2017 alleging therein that she is the original resident of village Kirbet, Taluka Sangmeshwar, District Ratnagiri. She had met the applicant on the social media i.e. on the face book. They met each other and had got acquainted with each other. That they were in love with each other and were planning to get married. According to the complainant, the applicant and the complainant had consensual sex on more than 2 to 3 occasions. However, in January, 2017 one fine day, he had made an absurd remark against her and refused to marry with her and therefore, she had lodged a report against him. Thereafter, he had assured her that he would speak with his father and settle the marriage. However, it appears that he was not successful in persuading his family. There was a family meeting between the family of the applicant and the complainant, which failed. She lodged a report on 4/2/2017. The

meeting between both the family had once again failed sometime in March, 2017. Thereafter, she had decided to lodge a report at the police station within whose jurisdiction she originally resides.

4 It appears from the papers of investigation that police are not prosecuting the applicant for offence punishable under section 420 of the Indian Penal Code. The complainant has candidly admitted that there was consensual sex between the applicant and the complainant. That the complainant is a working woman.

5 Upon perusal of the papers of investigation, it is apparent that it is a consensual sex and therefore, this Court is inclined to grant pre-arrest bail to the applicant.

6 It is made clear that the observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for purpose of discharge application or quashing of FIR or at the time of trial.

7 Hence following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in C.R. No. 183 of 2017 registered at Devrukh Police Station, the applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 1,00,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall report to the concerned police station on every alternative day commencing from 22/1/2018 to 3/2/2018 and cooperate with the investigating agency to the best of his capacity.
- (iv) The applicant shall not tamper with the evidence.

9 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)