

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**BENCH AT AURANGABAD****APPLICATION FOR CANCELLATION OF BAIL NO.1 OF 2018**

Sunita Nanasaheb Wani,
Age-37 years, Occu:Household,
R/o-Belapur (Kh), Tq-Shrirampur,
Dist-Ahmednagar.

...APPLICANT

VERSUS

- 1) Bajirao s/o Namdeo Bhavar,
Age-57 years, Occu:Agri.,
R/o-Pathare (Wavi), Tq-Sinnar,
Dist-Nashik,
- 2) The State of Maharashtra,
Through the Police Inspector,
Sangamner Taluka Police Station,
Tq-Sangamner, Dist-Ahmednagar.

...RESPONDENTS

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Mr.R.R. Karpe Advocate for Applicant.
Mr.Amol S. Gandhi Advocate for Respondent No.1.
Mr.A.A. Jagatkar, A.P.P. for Respondent No.2.

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CORAM: V.M. DESHPANDE, J.

DATE : 27TH MARCH, 2019

ORAL JUDGMENT :

1. Rule. Rule is made returnable forthwith and heard finally by consent of the parties.

2. Heard Shri R.R. Karpe, the learned counsel for the Applicant, Shri Amol Gandhi, the learned counsel for Respondent No.1 and Shri Jagatkar, the learned Additional Public Prosecutor for the State.

3. This is an Application for cancellation of anticipatory bail granted in favour of Respondent No.1 by the learned Additional Sessions Judge, Sangamner on 8th December, 2017 in Criminal M.A. No.242 of 2017, whereby the Court below granted pre-arrest bail in connection with Crime No.161 of 2017 registered with police station, Sangamner for the offence punishable under Section 376 of the Indian Penal Code.

4. The Applicant is the victim and the first informant. She lodged report on 7th November, 2017 against Respondent No.1. The First Information Report would reveal that marriage of victim was performed in the year 1988 with Dr. Nanasaheb and from her wed-lock she delivered two daughters. Unfortunately, her husband expired in the year 2005. Thereafter she started residing separately along side the house of her father at Belapur, Tq-Shrirampur. According to the First Information Report, in the month of March, 2017, through a mediator Dnyaneshwar, she came in contact with Respondent No.1, who is a widower and there was a proposal that they should re-marry with each other. The First Information Report itself shows that she accorded her consent for the marriage and thereafter she came in contact with Respondent No.1 resulting into the sexual relations in between them. However, according to the First

Information Report, subsequently, Respondent No.1 turned around and refused to marry with the Applicant, resulting into the lodgement of the First Information Report.

5. From the First Information Report itself, it is clear that the Applicant was the consenting party for the sexual relations between herself and Respondent No.1. Now, whether consent was obtained under fraud or any promise, will have to be determined during the course of the trial. However, for the said purpose, the custodial presence of Respondent No.1 is not at all necessary, and in my view, the said fact was appropriately considered by the learned Judge of the Court below and rightly granted anticipatory bail in favour of Respondent No.1, by imposing certain conditions.

6. During the course of the submissions it

is revealed to this Court, in the meanwhile investigation is already completed and the Investigating Officer has filed charge-sheet and the case is fixed for framing of the charge. Further, it is not the case of the prosecution that after the grant of anticipatory bail, Respondent No.1 misused the liberty granted to him.

7. In that view of the matter, no fruitful purpose would be served by cancelling anticipatory bail granted in favour of Respondent No.1 in the year 2017. Consequently, there is no merit in the Application. The Application is dismissed. Rule is discharged.

[V.M. DESHPANDE, J.]