

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1650 OF 2019

Yashwant Shivaji Sanap] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr.S.B. Talekar i/b Talekar and Associates, Advocate for the Applicant.

Smt. A.A. Takalkar, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 26th JULY, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.39/2019 registered with Waduj Police Station, District Satara u/sec. 376, 506 of I.P.C.

2. The offence is registered on the FIR lodged by the prosecutrix on 27/02/2019. She has stated in her FIR that, she had got married to her first husband on 02/07/2002 and she was residing with her husband in her matrimonial house. The present applicant was a relative of her husband. He used to visit her house. They developed friendship in the month of October 2002. The applicant went to her

parental house. There the prosecutrix had come to reside for a few days. The applicant told the prosecutrix that, he has her embarrassing photographs and unless she had physical relations with him, he would show those photographs to her husband. The prosecutrix was scared. When the prosecutrix was in that state of mind, the applicant forcibly had sexual intercourse with her and thus committed rape. It is her case that, the applicant time and again threatened her of showing those photographs to her husband and continued to commit rape on her repeatedly on different occasions. It is further case of the prosecutrix that, after few days the applicant again approached her at her parental house and suggested to her that, she should give divorce to her husband and thereafter, both of them could get married. The prosecutrix was kept in the house of one Chabubai at Kanherwadi. It is her case that, at his instance she obtained divorce from her husband in the year 2015. Thereafter, the prosecutrix was continuously asking the applicant to get married with her. However, he avoided on some pretext or the other. It is her further case that, in the month of June 2019, the applicant had come to her parental house, even at that time, the prosecutrix had asked the applicant about his intention to get married. Even on that occasion, the applicant avoided to give a clear

answer and kept physical relations against her wish. On this basis, the FIR is lodged.

3. Heard Mr. S.B. Talekar, Ld. Counsel for the Applicant and Smt.A.A. Takalkar, Ld. APP for the State/Respondent.

4. Mr. Talekar, Ld. Counsel for the applicant submitted that, the first incident mentioned in the FIR is of October 2002 and there has been a long gap of about 16 years in approaching police about her allegations. He submitted that, the allegations in the FIR appear to be improbable. He further submitted that, in any case from the bare reading of FIR, it appears that the relationship was consensual and therefore, the offence as alleged in the FIR is not made out in the entire FIR.

5. Ld. APP opposed these submissions. She submitted that, the physical relations were kept by the applicant on false promise of marriage. The consent of the prosecutrix was obtained because she was under misconception of facts.

6. I have considered these submissions. The perusal of the FIR indicates the allegations are baseless. The applicant was a married lady. In spite of her marriage still subsisting, she had left her husband and was residing in the house of Chabubai at the instance of the present applicant. If it is her case that, the applicant had threatened to show those photographs, to her husband. It does not appear to be probable because in spite of that, she continued to ask him to get married with her. Hence, from the averments in the FIR, it appears that, the relationship was consensual. The incidents mentioned are very old. In this view of the matter, custodial interrogation of the applicant is not necessary. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R.No.39/2019 registered with Waduj Police Station, District Satara, the Applicant is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)