

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2609 OF 2019

Sheetal Gajanan Bilagikar

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Ganesh Gole i/b Ritesh. Ratnam, Advocate for the Applicant.

Mr. Prashant Jadhav, APP for the state-respondent.

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CORAM : PRAKASH D. NAIK, J.

DATE : 28th November, 2019

PC :

1. The Applicant is seeking anticipatory Bail in connection with C.R. No. 524 of 2019, registered with Shivaji Nagar, Police Station, Ichalkaranji, Tal. Hatkanangale, Kolhapur for offence punishable under Section 376 of Indian Penal Code.

2. The First Investigation Report was lodged on 1st October, 2019. The complainant is a married lady. According to the complaint, her husband was in jail. He was subsequently released on bail. She got acquainted with the applicant who represented that he would arrange loan for her. On 30th July, 2019, the complainant was going to the bus stand. At that time the applicant approached her. He told her that, for arranging loan she is required sign documents and she will have to accompany him. The complainant accompanied him on

his motorcycle. The applicant then took her to hotel. He brought snacks. The applicant had forceful sexual relationship with the complainant. There was quarrel between the complainant and her husband. On 29th September, 2019 she left the house in disturbed state of mind. She was located at railway station. She returned home. The FIR was lodged on 1st October, 2019.

3. The applicant preferred an application for Anticipatory Bail before the Sessions Court which has been rejected.

4. Learned counsel for the applicant submitted that the FIR has been lodged two months after the incident. The complainant had visited the hotel along with applicant. There was sexual relationship between them. She did not lodge the complaint immediately after the incident. This shows that the relationship was consensual.

5. Learned APP submitted that there is no evidence to show that there was affair between the complainant and the applicant. She was in disturbed state of mind. She had left house. Thus, it cannot be said that the relationship was consensual.

6. The incident had occurred two months ago. No complaint was lodged immediately after the incident. The complainant has left the house on 29th September, 2019. The complainant had accompanied the accused to the hotel. Learned APP submitted that while checking

into the hotel, applicant had given different name. Admittedly both of them checked in hotel room. Allegedly there was sexual relationship between them on 30th July, 2019. The FIR was lodged after two months. In these circumstances, prima facie it appears that the relationship was consensual. Custodial interrogation of the applicant is not necessary. Hence, order as follows :

ORDER

- i) Anticipatory Bail Application No. 2609 of 2019 is allowed;
- ii) In the event of arrest of applicant in C.R. No. 524 of 2019 registered with Shivaji Nagar, Police Station, Ichalkaranji Tal. Hatkanangale, Kolhapur, the applicant be released on bail on furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- iii) The applicant shall report the Investigating Officer on 3rd, 4th and 5th December, 2019 between 10.00 am. to 12.00 noon, and thereafter as and when called for till filing of charge-sheet.
- iv) The applicant shall not approach the complainant or any other witnesses and shall not tamper with the evidence.
- v) Anticipatory Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)