

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

ANTICIPATORY BAIL APPLICATION NO. 238 OF 2019

Dinesh Vasant Kamble ... Applicant

Versus

State of Maharashtra ... Respondent

Mr. Ashok B. Tajane for Applicant.

Ms. Rutuja Ambekar, APP for Respondent – State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 28, 2019.

P.C. :

. Heard learned Counsel for Applicant and the learned APP.

2. In Crime No. 848 of 2018 for an offence punishable under Section 376 of the Indian Penal Code, the Applicant is seeking pre-arrest bail. Perused the contents of First Information Report.

3. The plain reading of the First Information Report and other material does not repose the confidence in the prosecution theory as narrated in the complaint.

4. It is the case of the complainant that first time when she visited at the house of her parents after her divorce, the incident in question happened. It is also claimed that physical relationship continued from 2013 to 2018. The very narration depicts that the necessary ingredients of Section 376 are not satisfied, as there appears to be a consent theory.

5. As such, a case for grant of anticipatory bail to the Applicant is made out. Hence, the following order.

ORDER

- (A) In the event of arrest in Crime No. 848 of 2018 for an offence punishable under Section 376 of the Indian Penal Code, the Applicant be released on executing PR Bond of Rs.25,000/- with one or more sureties in the like amount.
- (B) The Applicant shall attend the Investigating Officer on 4th, 7th, 11th & 14th February 2019 between 10.00 a.m. to 12.00 noon and thereafter as and when directed by the Investigating Officer.
- (C) The Applicant shall neither tamper the evidence of prosecution nor influence the prosecution witnesses.

6. The Applicant undertakes to co-operate the investigating agency and also volunteers to undergo the medical check-up in the offence in question.

7. Anticipatory Bail Application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)