

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 285 OF 2019

Jitendra Namdeo Shirke

...Applicant

Versus

State of Maharashtra & ors.

...Respondents

Mr.Kuldeep Patil for the applicant.

Mr.A.R. Kapadnis, APP for the respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st FEBRUARY 2019

P.C. :

1. This is an application for anticipatory bail in CR no.526 of 2018 registered with Shahapur Police Station, Gramin Thane, for offences punishable under Sections 376, 323, 504, 506 of the Indian Penal Code, 1860.

2. The FIR was lodged on 7th November 2018 by the victim who is aged about 27 years. It is alleged that the applicant/accused had approached the victim (complainant) and represented her that he would assist her in getting treatment in the hospital. The applicant took phone number of the victim and thereafter called her and informed her that he likes her. Thereafter, the accused had

threatened the victim that he would disclose to her husband that the victim was having affair with the applicant/accused. Thereafter, on 27th September 2018, the applicant has allegedly called the victim at the hospital. The applicant/accused made the victim to sit on his motorcycle and taken her to the hotel where the applicant/accused had assaulted the victim and under threat committed forcible sexual intercourse with the victim. After the incident, the accused allegedly dropped the victim at the bus stand. The applicant/accused had also threatened the victim that he would upload the alleged video of incident recorded by him, in the event she complains to her husband.

3. The learned Advocate for the applicant submitted that the relationship was consensual. It is apparent that the incident took place on 27th September 2018 and the FIR was lodged on 7th November 2018. It is further submitted that the applicant was assaulted by the husband of the victim and he has sustained serious injury including fracture to his skull and in that regard FIR has been lodged by the applicant with the same police station on 3rd November 2018 and offences are registered under Sections 324, 363, 427 read with Section 34 of the Indian Penal Code. It is submitted that the applicant had sustained severe injuries which would attract the

charge under Section 307 of the Indian Penal Code. It is further submitted that there was exchange of calls between the victim and the applicant/accused even after alleged incident.

4. Learned APP submitted that offence is serious. Under the threat the accused had sexually assaulted the victim. It is submitted that the victim has also stated that the applicant has recorded video clip of the alleged incident and had threatened her that the said same would be made viral.

5. I have perused FIR and other documents which are annexed to this application. The alleged incident had occurred on 7th September 2018. The victim was allegedly taken to the hotel by the applicant and he had physical relationship with her in the hotel room. Thereafter, victim was dropped on motor cycle at the bus stand. It also appears that there were exchange of phone calls between both the parties. The FIR was lodged belatedly. The applicant was assaulted by the husband of the victim and FIR in that regard was lodged on 3rd November 2018. In pursuance to that the present FIR has been registered. Considering the factual matrix of the case, the case for grant of anticipatory bail is made out.

7. Hence, I pass following order;

ORDER

- (i) Anticipatory Bail Application No.285 of 2019 is allowed;
- (ii) In event of arrest of the applicant in connection with CR no.526 of 2018 registered with Shahapur Police Station, Gramin Thane, applicant be released on bail on his furnishing PR bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend Investigating Officer on 7.2.2019, 8.2.2019, 11.2.2019 and 19.2.2019 between 11.00 am to 1.00 pm;
- (iv) The applicant shall cooperate with investigation and hand over his cell phone to the Investigating Officer for the purpose of Investigation;
- (v) The applicant shall not tamper with the evidence. The applicant shall not approach the victim, the prosecution witnesses or her relatives in any manner;
- (vi) Anticipatory Bail Application stands disposed off.

[PRAKASH D. NAIK, J.]