

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

ANTICIPATORY BAIL APPLICATION NO. 511 OF 2019

Vishwanath Sidramappa Wale ...Applicant

Vs.

State of Maharashtra ...Respondent

- Mr. Praveen L. Singh, Advocate for the Applicant.
- Mr. Prashant Jadhav, APP for the State

CORAM : SARANG V. KOTWAL, J.

DATE : 5th AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with CR No. 39/19 registered at Chinchwad Police Station, Pune under Sections 376, 385 and 506 of the IPC.

2. The FIR lodged by the prosecutrix is registered on 30th January 2019. She has stated in her FIR that she was residing with her husband and two sons. She was married 14 years prior to lodging of the FIR. Before her marriage, she was having love affair with the present applicant. However, due to their differences and other difficulties they could not get married. The applicant and prosecutrix were residing at Pimpri. Subsequently, the

prosecutrix's family shifted to Ulhas Nagar. Thereafter, she got married. In October 2018, the prosecutrix received a 'friend request' from the applicant on social networking site. She accepted that request and at his instance met him on 21st November 2018. In the meantime, the applicant used to send her messages which she used to delete after reading. On that day i.e. on 21st November 2018, the applicant went to Balaji Hospital near the house of the prosecutrix. The prosecutrix sat in his car. They had a formal conversation and thereafter the applicant took her to a hotel Krishna Palace, to avoid the people in the locality who were knowing the prosecutrix. The applicant informed the prosecutrix that he had booked a room in the hotel. The prosecutrix suggested that they could have their conversation in the car itself. However, the applicant convinced her to go to the hotel room. The applicant took selfies. The applicant told her that if she did not oblige, he would circulate those photographs. Because of this, the prosecutrix accompanied him to the hotel room. There he tried to get intimate, but prosecutrix resisted. Therefore, they left the room. The applicant dropped her near her house. The applicant told her to

meet him again. He threatened her that he would inform her husband that prosecutrix had accompanied him to a hotel room. It is further alleged in the FIR that the applicant was demanding Rupees one lakh.

3. On 21st December 2018, the prosecutrix had gone to Gurudwara at Akurdi. At 2.30 p.m., the prosecutrix called the applicant to settle the issue as she was constantly under pressure. Applicant came there in his car. The prosecutrix sat in his car. The applicant suggested that there was no one in his house and therefore, they could have peaceful conversation in his house. The prosecutrix went to the applicant's house. There again applicant demanded Rupees one lakh. He offered her a cold drink. After consuming the cold drink she felt giddiness. In that state, the applicant established physical relationship with her, though she was resisting.

4. It is mentioned in the FIR that, the prosecutrix told him that everything had happened according to his wish, he should not trouble her. The applicant told that he had video recording and blackmailed her. Thereafter, she told her husband and lodged this

FIR.

5. Heard, Mr. Singh, learned counsel for the applicant and Mr. Jadhav, learned APP for the State,

6. Learned counsel for the applicant submitted that FIR shows that there was consensual relationship. The allegations of demand of money and video recording are added to give it a serious colour. He submitted that after her husband came to know about her relationship, this FIR was lodged.

7. Learned APP submitted that the offence is serious and the prosecutrix was forced to keep the physical relations under threats of publishing her photographs and on the threats of disclosing their affair to her husband. He submitted that there was demand of Rupees one lakh.

8. I have considered these submissions. The FIR itself shows that the prosecutrix was admittedly having love affair with the applicant before marriage. After she received his friend request in the year 2018 she on her own had gone to meet him and both of them had gone to a hotel room. It is difficult understand as to why the prosecutrix would accompany him to a hotel room. This

intention of the applicant was quite obvious and yet she accompanied him. The applicant even took their selfies. At no such point the prosecutrix has resisted. On the first occasion, there was no physical relations. In spite of that the prosecutrix again went to his house, when she was well aware that there was nobody in his house. All this conduct shows that the prosecutrix was a willing party and she was not unaware of the consequences of her act. The other allegations of demand of money and of having video recording, at this stage, seems improbable because the conduct of the prosecutrix shows that she on each occasion had accompanied the applicant at places where they were alone. The applicant will suffer irreparable loss, if he is arrested. At this stage, there is sufficient material to indicate that the prosecutrix was a willing party.

9. In this view of the matter, the applicant deserves protection of anticipatory bail. Hence, the following order:-

ORDER

(I) In the event of his arrest in connection with C.R. No. 39/19 registered at Chinchwad Police Station, Pune, the Applicant is directed to be released on bail, on his furnishing

PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties ach in the like amount.

(ii) The application stands disposed off accordingly.

(SARANG V. KOTWAL, J.)