

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.516 OF 2019

Samadhan Ulhas Chavan] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Satyavrat Joshi, Advocate for the Applicant.
Smt. A.A. Takalkar, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 30th JULY, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.618/2018 registered with Sangvi Police Station, Pune City u/sec. 376 of I.P.C.

2. The FIR is registered on the complaint lodged by the prosecutrix on 21/12/2018. She has stated in her FIR that, she was married to her husband in the year 2015. But she was residing separately from him. The divorce proceedings between them were filed in the year 2016. She has further mentioned in her FIR that, even prior to her marriage, she was knowing the present applicant. She has stated in

her FIR that, after divorce, she again established friendship with the present applicant. She has clearly mentioned that, they developed love affair and the applicant promised to marry her. The prosecutrix has mentioned in her FIR that, on 06/12/2017, 28/12/2017 and in February 2018, they had physical relations. She has stated that, on each of these occasions, the applicant had promised to marry her and had established forcible physical relations. Since then the applicant has been avoiding to marry her and gave some excuses. Therefore, this FIR is lodged.

3. Heard Mr. Satyavrat Joshi, Ld. Counsel for the Applicant and Smt. A.A. Takalkar, Ld. APP for the State/Respondent.

4. Mr. Joshi, Ld. Counsel for the applicant submitted that, the FIR shows that the applicant and the prosecutrix were in a relationship. She has admitted that, they were having love affair. He further stated that, the divorce proceedings between the prosecutrix and her husband are still pending and no final order is passed in these proceedings. He therefore submitted that, the prosecutrix was aware of the difficulties in the marriage between herself and the present applicant. He

submitted that, in this backdrop, no offence is said to be committed by the present applicant.

5. Ld. APP submitted that, the consent of the prosecutrix was obtained on false promise of marriage. She therefore submitted that, the offence is made out and applicant does not deserve protection of anticipatory bail.

6. I have considered these submissions. The FIR itself mentions that, the prosecutrix was having love affair with the present applicant. On different occasions, at different places they had established physical relations, though she says that, it was against her wish. However, the FIR shows that, she was a willing and consenting party. As pointed out by Mr. Joshi, divorce proceedings are still pending between the prosecutrix and her husband. Therefore, she was very well aware of the difficulties faced by her and applicant in getting married. In spite of that, she knowingly kept physical relations with the applicant. It cannot be said that, she was not aware of the consequences of her act. Therefore, at this stage it is difficult to observe that, the applicant has committed the offence as alleged. In

this view of the matter, the applicant deserve protection of anticipatory bail. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R.No.618/2018 registered with Sangvi Police Station, Pune City, 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.)