

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

ANTICIPATORY BAIL APPLICATION NO.699 OF 2019

Rohit Vilas Mhatre

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. Kuldeep S. Patil, for the Applicant.

Smt. A. A. Takalkar, for the State.

CORAM : SARANG V. KOTWAL, J.

DATE : JUNE 28, 2019

P.C.:

1. The applicant is seeking anticipatory bail in connection with C.R. No.I-25/2019 registered with Wadkhal Police Station, District Raigad under Section 376 of IPC.

2. The FIR is lodged by the prosecutrix on 26/2/2019. She has mentioned in the FIR that she had herself contacted the present applicant from her fake Facebook account. Somewhere in April 2018 she had sent friend request to him on Facebook and he accepted it. Thereafter, the prosecutrix herself had asked for his

telephone number which the applicant had provided. Thereafter, they met and started liking each other. It is her case that the applicant had promised to marry her. Then they started going for outings. In July 2018, they had their first sexual intercourse in her house. It is her case that she was reluctant but the applicant forced her for the act. In or around August and September 2018, both of them went to Alibagh. There they went to one lodge and again they had physical relations there. In November 2018, the prosecutrix herself called the applicant to her friend's office. While they were traveling together she fell down from the motorcycle and suffered injuries. When she was taken to hospital, her foster brother Sandesh Patil came there and he came to know about their relations. The FIR thereafter mentions that there was some interactions of the applicant with her parents in respect of their marriage. Even thereafter, on 16/1/2019, they again went to Alibagh and again they had sexual intercourse. Finally however they did not get married and the prosecutrix lodged the FIR.

3. Heard Mr. Kuldeep Patil for the applicant and Smt. Takalkar, Ld. APP for the State.

4. Shri. Patil submitted that the FIR shows that their relationship was consensual and there was no force involved. He further pointed out that the prosecutrix herself had taken initiative and she has participated in the act every time with him with her consent.

5. On the other hand, Ld. APP submitted that the prosecutrix had consented because of the promise of marriage given by the applicant. She further submitted that the applicant is still trying to harass her.

6. I have considered the contents of the FIR. From the FIR, it is very clear that the prosecutrix herself had got in touch with the present applicant through fake Facebook account. She herself asked the applicant to give his mobile phone number and thereafter their friendship grew. The instances mentioned in the

FIR indicate that on one or other count she had willingly accompanied the applicant. She is an adult lady and therefore it cannot be said that she was not aware of the consequences of her act. The allegations that the applicant had made false promise of marriage do not appear to be true because the applicant had met her father as mentioned in the FIR. From the FIR, it transpires that for some reason the marriage could not take place and thereafter since everybody was aware of their relations, finally the FIR was lodged. In this view of the matter, the applicant deserves protection by way of anticipatory bail. However, the applicant is directed not to make any attempt to meet the prosecutrix. Hence, the following order.

ORDER

1. In the event of his arrest, the applicant is directed to be released on bail in connection with C.R. No. I-25/2019 registered with Wadkhal Police Station, District Raigad on his executing P.R. Bond in the sum of Rs.25,000/- (Rs.Twenty Five Thousand Only) with one or two sureties in the like amount.

2. The applicant shall not make any attempt to contact the prosecutrix in any manner.
3. The applicant shall attend the concerned Police Station from 10/7/2019 to 12/7/2019 between 12.00 p.m. to 5.00 p.m. and shall co-operate with the investigation.
4. The applicant shall thereafter attend the concerned Police Station as and when called.
5. The application is disposed of.

(SARANG V. KOTWAL, J.)