

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.710 OF 2019

Amit Bhaskar Jadhav] ... Applicant

Versus

The State of Maharashtra] ... Respondent

WITH
CRIMINAL APPLICATION NO.1061 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.710 OF 2019

Jagruti Giridhar Gawali] ... Intervener

IN THE MATTER OF

Amit Bhaskar Jadhav] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Piyush Toshniwal, Advocate for the Applicant.

Mr. S.H. Yadav, APP for the State/Respondent.

Mr. Prashant Pandey i/b Mr. Suhas Adhav, Advocate for the Intervener.

Mr. R.B. Patil, HC attached to Peth Police Station, Nashik (Rural) present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 22nd JULY, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with

C.R.No.22/2019 registered at Peth Police Station, Nashik (Rural)
u/sec. 376, 363 of I.P.C.

2. The FIR is lodged by the prosecutrix herself. Her date of birth is 23/05/2000. The FIR is lodged on 20/02/2019. The incidents narrated in the FIR have taken place after February 2019. Therefore, she was more than 18 years of age when these alleged incidents had taken place. It is clearly mentioned in the FIR that, the prosecutrix was having love affair with the present applicant. Her parents were strongly opposed to their relationship. Even then, the prosecutrix used to meet the present applicant. On 03/02/2019, the prosecutrix's mother had forbidden the prosecutrix to meet the present applicant. Therefore, prosecutrix herself sent a message to the applicant and informed him that, her parents were not sending her to the college from the next day onwards. That time, they decided to elope. On 04/02/2019, on some pretext the prosecutrix left her house to meet the applicant. Both of them went to Nashik. They booked a room in a hotel. They resided there for 4 to 5 days. The applicant had thereafter gone to meet his parents at Peth. Then the applicant and prosecutrix changed the hotel and stayed in a different hotel. It is her case that,

on the promise of marriage, the applicant kept physical relations with her. On 17/02/2019, the prosecutrix had gone to Golashi, at that time she met her grand father Kailas Gawali. He took the prosecutrix with him and then brought her back to her house on 18/02/2019. After that on 19/02/2019, her parents went to meet the applicant's parents. However, the applicant declined to marry her and therefore, this FIR is lodged.

3. Heard Mr. Piyush Toshniwal, Ld. Counsel for the Applicant, Mr.S.H. Yadav, Ld. APP for the State/Respondent and Mr. Prashant Pandey, Ld. Counsel for the Intervener.

4. Ld. Counsel for the applicant submitted that, the relationship was consensual. The prosecutrix had left her house on her own and had stayed with the applicant. She is an adult. Therefore, no offence is made out.

5. Mr. Pande, Ld. Counsel for the Intervener submitted that, the promise of marriage has turned out to be a false promise.

6. Ld. APP has tendered police report dated 22/07/2019 signed by PSI S.B. Nagave, Peth Police Station wherein it is clearly mentioned that, the police did not want the police custody of the applicant.

7. Considering all these aspects, it is clear that, the prosecutrix had accompanied the applicant voluntarily. They resided in different hotels. The prosecutrix was an adult. Prima facie, the relationship was not kept going only on the pretext of getting married. The prosecutrix was aware that, her parents were strongly opposed to their marriage. In spite of that, she voluntarily kept physical relationship with the applicant. Whether the applicant had intention to cheat right from the inception or he could not marry because of pressure of his parents, will be decided only at the time of trial. This question is left open to be decided by the Trial Court. However, at this stage, sufficient grounds are made out by the applicant for grant of protection of anticipatory bail. The police also did not want custody of the applicant, therefore no point will be served by denying protection of anticipatory bail to the applicant. In this view of the matter, following order is passed.

ORDER

1. In the event of his arrest in connection with C.R.No.22/2019 registered at Peth Police Station, Nashik (Rural), 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.
3. Intervention Application also stands disposed of.

(SARANG V. KOTWAL, J.)