

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

ANTICIPATORY BAIL APPLICATION NO. 713 OF 2019

Anil Someshwar Garampalli

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Mahendra V. Kawchale, Advocate for the Applicant.
- Smt. A. A. Takalkar, APP for the State.

CORAM : SARANG V. KOTWAL, J.

DATE : 6th SEPTEMBER, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with CR No. 169/19 registered at Barshi City Police Station, Solapur under Section 376 (2)(n) of the IPC.

2. The FIR is lodged by the prosecutrix. At the time of lodging of FIR, she was 34 years of age. She has stated in her FIR that she was a married lady with a son. She was residing separately from her husband since the year 2009. A formal divorce took place in the year 2014. She has stated that in the year 2010, she came in

contact with the present applicant, who was working in the same company where she was working. The FIR further mentions as to how they got acquainted and how the applicant protested his love for her. The FIR also shows that the applicant had suggested that he would marry her, but the prosecutrix had pointed out that the applicant himself was a married man and therefore, their marriage would not be possible. In spite of that, they developed their relationship. The FIR mentions various instances when they had sexual intercourse. Their physical relations continued on different occasions at different places including a lodge starting from year 2011 till year 2017. In the year 2017, the applicant started avoiding her and refused to marry her. Therefore, she finally lodged her FIR.

3. Heard, Mr. Kawchale, learned counsel for the applicant as well as Smt. Takalkar, learned APP for the State.

4. Learned counsel for the applicant submits that it was a consensual relationship and no offence is committed by the applicant.

5. Learned APP opposed the grant any relief to the applicant on

the ground that the applicant had made false promise of marriage to the prosecutrix and their relationship was continued for long period of more than six years on that promise.

6. The narration in the FIR itself shows that the prosecutrix was aware that she herself as well the applicant were married persons and therefore, their marriage was difficult. When their relations started, that time the prosecutrix had not obtained divorce from her husband. Thus, right from the beginning she was aware of the difficulties in getting married and still she continued with the relationship with the applicant. Her statement in the FIR shows that they had sexual intercourse at various places including a lodge. Thus, the prosecutrix was a willing party. At this stage, it is difficult to observe that the prosecutrix was entertaining any misconception of fact at any time. Though this would be decided during the trial. However, at this stage, custodial interrogation of the applicant will not serve any purpose. Hence, the following order:-

ORDER

(i) In the event of his arrest in connection with C.R. No.169/19 registered at Barshi City Police Station, Solapur, 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 in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)