

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

ANTICIPATORY BAIL APPLICATION NO.951 OF 2019

Sachin Janardhan Ingale

.... Applicant

versus

The State of Maharashtra & Anr.

.... Respondents

.....

- Mr.Ghanshyam Jadhav i/b. Biju A. Aloor, Advocate for Applicant.
- Ms.A.A. Takalkar, APP for the State/Respondent.
- Mr.Akshay M. Gosavi, Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 27th AUGUST, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.13/19 registered with Paud Police Station, Pune, under sections 376, 313, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. The FIR is lodged by the prosecutrix. She had stated in her FIR that she had got married in the year 2008. But since

2010 she was residing separately from her husband because of matrimonial discord. She had a son from that marriage. In September 2015 she got acquainted with the present Applicant. The acquaintance developed into close relationship and thereafter in a love affair. In December 2015 both of them went to a lodge and they had their first sexual intercourse in a room in that lodge, though she had alleged that it was against her wish. She has further stated in her FIR that after that incident, time and again they had sexual intercourse. It is her case that the Applicant was promising to marry her and if she refused to keep physical relationship, she was assaulted by him. The Applicant asked her to take a flat on rent at Charholi. Even at that place, the Applicant used to visit her regularly and they continued with their physical relations. The prosecutrix became pregnant. It is her case that the Applicant, his friend and his wife persuaded her to abort her pregnancy. Therefore she underwent that procedure unwillingly. After that, from May 2018, the prosecutrix started residing with her grandmother at Paud and then at Bhugaon in the Applicant's room. Even there, they had

their physical relations. She again became pregnant, but this time, she refused to abort the child. On this basis, the FIR is lodged.

3. Heard learned Counsel Mr.Ghanshyam Jadhav for the Applicant and learned APP Ms.A.A. Takalkar for the State.
4. Learned Counsel for the Applicant submits that bare reading of the FIR shows that it was a consensual relationship and no offence was made out. Learned APP as well as the learned Counsel for the prosecutrix relied on her statement recorded u/s 164 of Cr.P.C. where she had added a few more allegations against the present Applicant.
5. I have considered all these submissions. The FIR was lodged voluntarily by the Applicant. The statements in the FIR show that the prosecutrix was aware that the Applicant was a married man. In spite of that she continued having physical relations with him. On the first occasion, she had willingly accompanied him to a room in a lodge. Therefore it is not

possible to believe that she was not a willing party in their first sexual intercourse. After that, they had sexual intercourse on many occasions and she became pregnant. It is her case that she was made to abort her pregnancy against her wish. Even this is not believable as even after that she stayed at the room of the Applicant at Bhugaon and they continued their relations. Though, there are a few more allegations in the statement recorded u/s 164 of Cr.P.C., the entire FIR, which was given by her voluntarily, shows that it was definitely a consensual relationship. Even the abortion on the first occasion does not appear to be carried out against her wish as she had continued her relations with the Applicant even after that. Thus, at this stage, custodial interrogation of the Applicant is not necessary. The Applicant is protected by the order of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.13/19 registered with Paud 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 in the like amount.

- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)