

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.990 OF 2019

Dattatraya Rajaram Madne] ... Applicant

Versus

The State of Maharashtra] ... Respondent

WITH
CRIMINAL APPLICATION NO. 897 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.990 OF 2019

Sonali Manoj Sonawane] ...Applicant/Intervener

IN THE MATTER BETWEEN

Dattatraya Rajaram Madne] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Kuldeep Patil, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for the State/Respondent.

Mr. Sanjeev Kadam i/b Mr. Bhalchandra Shinde, Advocate for the Intervener in Cri. Appln No.897/2019.

Dr. Pritee Tipare, ACP Lashkar, Pune City present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 15th JULY, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with

C.R.No.129/2019 registered with Hadapsar Police Station, Pune City u/sec. 376, 417, 323, 506 (2) of I.P.C.

2. The FIR is lodged by the prosecutrix on 03/02/2019. She has stated in her FIR that she was earlier married to her first husband on 28/07/2008. She has a daughter from that marriage who is now 8 years of age. In the year 2013, she had gone to Bhekaranagar Fursungi Police Station for lodging a complaint against her husband. At that time, the present applicant who was present there got acquainted with the prosecutrix. The applicant was Police Inspector at that time. In her case, the applicant helped her and therefore, they developed good relationship. In the year 2015, she was divorced from her husband. Thereafter, the applicant developed close relationship with the prosecutrix. The applicant promised that he would marry her. According to the prosecutrix, he represented that he would divorce his wife and would get married with the prosecutrix. It is the case of the prosecutrix that because of his promise, she started residing with the applicant in a flat at Ravidarshan Society, Hadapsar. There the applicant, the prosecutrix and her daughter from the earlier marriage were residing together. That time, the applicant and the

prosecutrix had physical relationship. Time and again, the applicant used to promise her that he would divorce his wife and would marry her. The prosecutrix started getting uncomfortable because her relatives started asking her about this relationship. It is her case that the applicant started ill treating her and started assaulting her and her daughter. It is her case that, she had started her own business of ready-made garments and the applicant used to take money earned from that business. In the year 2018, the prosecutrix and the applicant started residing in another flat in Priyadarshini Apartment at Hadapsar, Pune. Out of these flats, the flat at Ravidarshan Society was purchased by the applicant in the name of the prosecutrix. It is her case that, inspite of this, the applicant did not marry her and therefore his acts amounted to cheating and therefore, even Section 376 of I.P.C. was made out. Based on these allegations, the FIR is lodged.

3. Heard Mr. Kuldeep Patil, Ld. Counsel for the Applicant, Ms. S.S. Kaushik, Ld. APP for the State/Respondent and Mr. Sanjeev Kadam, Ld. Counsel for the Intervener.

4. Mr. Patil submitted that from the allegations in the FIR, no

offence u/sec. 376 of I.P.C. is made out. The physical relationship between the prosecutrix and the applicant was consensual. They had resided in different flats over long period of more than two years. They were living like husband and wife. The prosecutrix was aware that the applicant was already married at that time. Therefore, she was aware of consequences of her act. According to Mr. Patil, therefore no offence is made out and custodial interrogation of the applicant is not necessary.

5. According to Ld. APP and the Ld. Counsel for the Intervener, the applicant and his family members including his wife are trying to pressurise the prosecutrix. She submitted that the applicant was working with police department and as on today he is suspended. But he is misusing his position in harassing the prosecutrix.

6. I have considered the submissions advanced before me. The allegations in the FIR indicates that the prosecutrix was very well aware that the applicant was a married man, yet she continued residing with him in a live-in relationship for more than two years. The Ld. Counsel for the intervener submitted before me that the

applicant's name was used in the school record of the prosecutrix's daughter. Looking at the nature of allegations, it is doubtful if the offence u/sec. 376 of I.P.C. is made out against the applicant. The relationship was consensual. Therefore, at this stage, the applicant deserves protection of anticipatory bail on certain conditions. The observations made in this order are restricted to the decision of this application. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R.No.129/2019 registered with Hadapsar Police Station, Pune City, the Applicant 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. The applicant or his family members shall not make any efforts to contact the prosecutrix.
3. The applicant shall take steps to remove his name from the school record of the prosecutrix's daughter.
4. The applicant shall attend the concerned police station on every Sunday between 3.00 p.m. to 5.00 p.m.

5. If any of these conditions are violated, the prosecutrix and the State of Maharashtra are at liberty to make an application for cancellation of this order.
6. Application stands disposed of accordingly.
7. Intervention Application No.897 of 2019 also stands disposed of.

(SARANG V. KOTWAL, J.)