

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1118 OF 2019

Tushar Ramesh Mane] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Sachin Pawar, Advocate for the Applicant.

Smt. A.A. Takalkar, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 22nd JULY, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.567/2018 registered with Sangvi Police Station, Pune City u/sec. 376, 313, 506 of I.P.C.

2. The FIR is lodged on 26/11/2018 by the prosecutrix herself. She has stated that, she was working in a private firm in Pune. There she came in contact with the present applicant. Thereafter, they developed their friendship over a social networking site. On 11/10/2016, the present applicant confessed his love for the prosecutrix and the prosecutrix reciprocated. On the next day i.e. on

12/10/2016, they had a discussion wherein the prosecutrix told him that she was older than him and expressed doubt about viability of their marriage. However, the applicant convinced her that, he wanted to marry her. In January 2017, the applicant called the prosecutrix to his house on the pretext of introducing her to his family. However, no one was present in the house. There they had their first physical contact on that day. It is her case that, she was reluctant, but still then he had kept physical relations with her. Thereafter, she got pregnant. It is mentioned in the FIR that, they went to a doctor and she consumed pills given by the doctor for abortion. Even after that, the prosecutrix was asking the applicant about their marriage. It is her case that, the applicant told that, he had a video clip and by using that ground, he kept physical relations with the prosecutrix. Finally, the prosecutrix got the impression that, the applicant never wanted to marry her, therefore she went to the Sangvi police station on 20/10/2018. At that time, family members of the applicant pleaded with her not to lodge the FIR. Therefore, on that day she did not lodge her FIR. After that she was informed by the applicant's uncle that, the applicant had left his house and was not available. Therefore, the prosecutrix finally lodged the FIR on 26/11/2018.

3. Heard Mr. Sachin Pawar, Ld. Counsel for the Applicant and Smt.A.A. Takalkar, Ld. APP for the State/Respondent.

4. Ld. Counsel for the applicant submits that, plain reading of the FIR shows that the applicant and the prosecutrix were in love and they had kept relations out of that love affair. He submitted that, even the abortion had taken place with consent of the prosecutrix.

5. Ld. APP submitted that, the offence is serious. The phone and laptop are not examined by the Investigating Officer till today. The applicant was directed to attend the police station and he had attended the police station and had co-operated with the investigation.

6. Considering the nature of the allegations in the FIR, it is clear that, the prosecutrix and the applicant had love affair. The prosecutrix herself was doubtful about their marriage because she was older than the applicant. On the first occasion when they had physical relations at that time also the applicant had called her to his house to meet his family. But his family was not in the house. Even thereafter the prosecutrix continued to have physical relations with the applicant. The abortion had taken place with consent of the prosecutrix and both

of them had gone together to the doctor. It is not her case that, she did not want to consume the pills given by the doctor. Therefore, at this stage, the offense u/sec.313 of I.P.C. is not clearly made out against the present applicant.

7. Considering nature of the consensual relationship between the parties, it is doubtful as to whether the offence u/sec. 376 of I.P.C. is committed by the present applicant. However, his intention can be tested during the trial. At this stage, the applicant has made out a case for protection of anticipatory bail. Though, he will have to co-operate fully with the investigation. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R.No.567/2018 registered with Sangvi Police Station, Pune City, 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. The applicant shall attend the concerned police station as and when called and shall make his electronic devices available for examination.

3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)