

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

ANTICIPATORY BAIL APPLICATION NO.1194 OF 2019

Arun Chaganlal Rathod

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Kushal Mor, Advocate for Applicant.
- Ms. S. S. Kaushik, APP for the State/Respondent.
- Mr. Vikas Madake, PSI, Wakad Police Station present.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R. No.563/2019 registered with Wakad Police Station, Pimpri Chinchwad under Section 376 of IPC.

2. The prosecutrix has lodged her FIR on 6/5/2019. It is her allegation that she was working with the present applicant in the year 2016. The applicant was trying to get close to her. In the FIR it is mentioned that applicant committed rape on her in

September 2016 against her will and thereafter again on another occasion he repeated the same offence by taking her to one lodge at Hinjewadi. The prosecutrix got married in February 2017. She further alleged in her FIR that since March 2017 offending messages were sent on her husband's Facebook page from the account of one Preet Suryavanshi. It is further mentioned in the FIR that because of this there was serious marital discord between the prosecutrix and her husband. It is also mentioned in the FIR that in April 2019 another fake Facebook account in the name of Ketki A. Rathod was opened.

3. Heard Shri. Kushal Mor, Ld. Counsel for the applicant and Ld. APP Ms. Sharmila Kaushik for the State. Ld. Counsel for the applicant invited my attention to the photographs annexed to this application at page No.37 and 38. He also invited my attention to the CDR which showed that long telephonic conversation used to take place between the applicant and prosecutrix in the month of September and October 2016. He further invited my attention to the chats between the applicant and prosecutrix's husband. He therefore submitted that the

relationship between the applicant and prosecutrix was consensual. Only after husband of the prosecutrix came to know about it, the trouble started and to save her marriage, prosecutrix has lodged this FIR.

4. On 3/6/2019, this Court had directed the Ld. APP to take instructions in respect of the photographs and CDR annexed to this application. Ld. APP has submitted that the I.O. had interacted with the Cyber Cell for verifying the allegations regarding the use of fake Facebook account. The visit of the prosecutrix and the applicant together to that particular lodge was also investigated. Today, the Investigating Officer is present in the Court. On his instructions, Ld. APP makes a statement that the Cyber Cell has informed the investigating agency that, as of today there is nothing to show that the present applicant was instrumental in creating fake Facebook accounts. The APP further submitted that when the I.O. visited the concerned lodge, a copy of the Aadhar Card of the prosecutrix was seized. It indicates that the prosecutrix had willingly accompanied the applicant to that lodge. There is no material to the contrary with the investigating

agency. Moreover, the prosecutrix has not remained present before the I.O. to explain about the photographs annexed to this application. The photographs show that their relation was quite intimate. In this background of the investigation, as of today, the applicant's claim that he and the prosecutrix were in consensual love relationship has to be accepted. In this view of the matter, custodial interrogation of the applicant is not necessary. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. No.563/2019 registered with Wakad Police Station, Pimpri Chinchwad, the applicant is directed to be released on bail on his executing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in like amount.
- (ii) If in future, the Investigating Agency came across any concrete material against the present applicant in respect of creation of fake Facebook

account and of causing harassment of the prosecutrix, the State is at liberty to move an application for cancellation of his bail.

(iii) The application is accordingly disposed of.

(SARANG V. KOTWAL, J.)