

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

ANTICIPATORY BAIL APPLICATION NO. 1329 OF 2019

Kishor Sayaji Malusare ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Siddhsen Borulkar, Advocate for the Applicant.
Smt. A. A. Takakar, APP for the State.
Mr. Subhash Chaugule, API, Satara City Police Station.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 24th JUNE, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with CR no. 97/2019 registered with Paud Police Station, Pune punishable under Sections 376 and 504 of IPC.
2. FIR is lodged by the prosecutrix on 8th March 2019. It is her case that she had lost her husband. To sustain herself and her son she was working in a bungalow of one Ravsaheb Gurav at village Survewadi. The owner of the bungalow used to visit after 3-4 days, but the prosecutrix had to clean the house daily. The applicant was working as a watchman in the bungalow and his duties were at the gate. The applicant was aware that the prosecutrix

used to come to the bungalow for cleaning, etc.

3. In July 2018 the applicant went inside the bungalow when the prosecutrix was doing her work. He closed all the doors and committed rape on the prosecutrix. Out of fear, the prosecutrix did not disclose the fact to anybody. In the month of February she realised that she was pregnant. Doctor confirmed her pregnancy. However, since the pregnancy was in advance stages, she could not do anything. The fact of her pregnancy was known to her family. After this the prosecutrix lodged the FIR.

4. Heard Mr. Borulkar, learned counsel for the applicant and Smt. Takalkar, learned APP for the State.

5. The learned counsel for the applicant submitted that there is a delay in lodging the FIR. The incident had taken place in July 2018 and the FIR was lodged in March 2019. The delay is unexplained and inexplicable. He further submitted that the date of sonography and date of incident did not mathematically match and therefore the incident is improbable. Learned counsel for the applicant submitted that it is impossible that an adult lady would not be aware of her pregnancy for quite sometime. He further submitted that the applicant is falsely implicated in this matter.

6. Having perused the FIR, it is more than clear that the prosecutrix had waited for some time before lodging the FIR for various reasons. The conduct of the prosecutrix is not unnatural. In this case the reluctance on

the part of the prosecutrix to approach the police immediately is understandable. Looking at the seriousness of the allegations, no case for anticipatory bail is made out. Hence, the application is rejected.

(SARANG V. KOTWAL, J.)