

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

ANTICIPATORY BAIL APPLICATION NO.1294 OF 2018

Vijendra Narayan Thamke	 Applicant
versus	
The State of Maharashtra	 Respondent

.....

- Mr.Ganesh Gole i/b. Shirodkar Ateet, Advocate for Applicant.
- Ms.S.S. Kaushik, APP for the State/Respondent.
- API P.S. Tayade, Kolad Police Station, Raigad, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 20th JUNE, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.29/18 registered with Kolad Police Station, Raigad on 17/06/2018 under sections 376, 323, 504, 506 of the Indian Penal Code.

2. The FIR is lodged by the prosecutrix mentioning that in the year 2007, she came in contact with the present Applicant through her brother. Slowly their acquaintance grew into friendship and they fell in love. The Applicant's father had built a house at Pale, Taluka Roha. On 11/11/2010, the Applicant made a proposal for marriage to the prosecutrix. He told the prosecutrix that since he belonged to a different religion,

prosecutrix's family would not have agreed for their marriage. Therefore they decided to elope. Both of them went to reside in the house of the present Applicant. They resided there eight long years with the Applicant's parents and other brothers. The family of the Applicant had accepted her though there was no marriage. It is her case that, the Applicant kept physical relationship though she was reluctant. He used to avoid the topic of marriage. Ultimately, on 15/05/2018 there was quarrel between the couple and the Applicant assaulted and abused her and refused to marry her. Therefore she lodged her FIR.

3. Heard learned Counsel Mr.Mr.Ganesh Gole for the Applicant and learned APP Ms.S.S. Kaushik for the State.
4. The statements in the FIR clearly shows that there was love relationship between the Applicant and the prosecutrix. They were living together for about eight years with knowledge of the family members of the Applicant as well as with consent of prosecutrix herself. For eight years the prosecutrix was aware that the Applicant belonged to a different religion. During that period marriage was not performed. Therefore it cannot be said

that the prosecutrix was under some misconception and under that misconception she had consented to keep physical relations. Looking at the totality of allegations in the FIR, it is clearly made out that there was consensual relationship between the couple i.e. the Applicant and the prosecutrix. Therefore, prima facie, offence under section 376 is not made out against the Applicant. Hence he deserves protection of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.29/18 registered with Kolad Police Station, Raigad, 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.)