

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1483 OF 2019

Amit Nandkishor Joshi] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Ms. Vaidehi Odhekar, Advocate for the Applicant.

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

Mr. Sachin Pawar, Advocate for the Complainant.

API Bhosale attached to Bharati Vidyapeeth Police Station, Pune City present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 10th JULY, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.330/2019 registered with Bharati Vidyapeeth Police Station, Pune City, u/sec. 376, 417 of I.P.C.

2. The FIR is lodged by the prosecutrix on 25/04/2019. She has stated in her FIR that, she is 26 years of age. She has completed her degree course in Bachelor in Business Administration. She was working with Automatic Infotech, Bibewadi, Pune. In that company present applicant was working in another department. Both of them

got acquainted and fell in love. The prosecutrix has further stated that since September 2018, she used to regularly visit applicant's house. She has mentioned in her FIR that, on the false promise of marriage, the applicant kept physical relationship with her. The relationship continued till March, 2019. Thereafter, the applicant started picking up quarrels. On 04/04/2019 the applicant told her to leave his place and to take away her belongings. Thereafter, they tried to settle their differences. They were going on motorcycle towards Katraj. At that time, she consumed phenol. The applicant himself admitted her in hospital. In the hospital, false name of the prosecutrix was given. On the next date, after discharge, the applicant took her to his house. After that he left Pune and went to his native place. Thereafter, he had no contact with the prosecutrix. On this basis, the FIR was lodged.

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

4. Ld. Counsel for the applicant submits that the prosecutrix was an adult lady and was highly educated. The statement in the FIR

shows that there was consensual relationship. There was no force involved and therefore, the offence u/sec. 376 of I.P.C. is not made out. She submitted that the applicant had not made false promise of marriage.

5. Ld. APP produced the investigation papers before me. One of the witnesses is Gaurabai. She was doing household work in the applicant's house. She has stated that she was knowing the prosecutrix. According to her, the applicant and the prosecutrix were living in that house as husband and wife. The prosecutrix had told her that they were going to get married.

6. Considering the nature of allegations in the FIR, it is difficult to see how the offence u/sec. 376 of I.P.C. is made out at all. The prosecutrix is a highly educated lady and was working in a company. She was not dependent on the applicant. She was very well aware of the consequences of the act. One of the witnesses has stated that, they were living like husband and wife. It is more than clear that they were in live-in relationship, therefore if something goes wrong in such relationship subsequently, it cannot be said that in all these cases, the offence of rape is made out. Even the ingredients of cheating are not

clearly made out in this case.

7. Ld. Counsel for the informant submitted that, the prosecutrix's statement was not recorded properly. However, this cannot be the ground for denial of anticipatory bail. The FIR was lodged on 25/04/2019 and till today the prosecutrix has not made any grievance about incorrect recording of her FIR. Therefore, at this stage, his contention cannot be accepted. In view of all this discussion, the applicant has made out a case for relief of anticipatory bail. However, it is made clear that these observations are restricted to deciding this application only. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R. No. 330/2019 registered with Bharati Vidyapeeth 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. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)