

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1637 OF 2019

Chandan Ashwinkumar Mishra] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Kedar Patil i/b Mr. Sudatta Patil, Advocate for the Applicant.
Mr. Y.M. Nakhwa, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 25th JULY, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.225/2019 registered with Jaysingpur Police Station, District Kolhapur u/sec. 376, 417 of I.P.C.
2. The FIR is lodged by the prosecutrix herself. She has stated in her FIR that, she was a married woman and she had got married in the year 2015. She was residing at her matrimonial house with her husband and mother-in-law. She has stated that, she came in contact with the present applicant who was working in a private firm since 2015. The present applicant was working there as a delivery boy.

Both of them got acquainted and love affair developed between them. She has clearly stated that, they were in love. Further she has alleged that, the applicant was making promise to marry her. She has stated in her FIR that, on 26/05/2019 and 09/06/2019 they had sexual intercourse in a lodge. She has further stated that, after that the applicant declined to marry her. On these allegations, the FIR is lodged.

3. Heard Mr. Kedar Patil, Ld. Counsel for the Applicant and Mr.Y.M. Nakhwa, Ld. APP for the State/Respondent.

4. The bare reading of the FIR shows that, the applicant and the prosecutrix were in love. The prosecutrix herself was a married lady and she was residing with her husband and mother-in-law. She was very well aware of the consequences of the act. She was also aware that, her marriage with the applicant was a difficult proposition. In spite of that, she allowed the applicant to have sexual intercourse on two different occasions in the same lodge. Thus, on the basis of the allegations in the FIR, it is more than clear that, the relationship was consensual and prima facie no offence is committed by the applicant.

The effect of her consent alleged to be given under misconception, can be decided during trial. However, custodial interrogation of the applicant is not necessary and he deserves protection of anticipatory bail. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R.No.225/2019 registered with Jaysingpur Police Station, District Kolhapur, 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. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)