

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

ANTICIPATORY BAIL APPLICATION NO.1651 OF 2019

Akshay Maruti Narale

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr. Manas N. Gawankar, Advocate for Applicant.
- Smt. A. A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 30th JULY, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R. No.197/2019 registered at Warje Malwadi, Pune City, under sections 376(2)(n), 417, 504, 506, 323 of IPC.

2. The FIR is lodged on 16/5/2019 by the prosecutrix who was 45 years of age. She has stated that in the year 2014 she got acquainted with the present applicant. Their acquaintance turned into friendship and then friendship turned into a love affair.

It is her case that on the first occasion, he, under influence of liquor told her that he had accepted her as his wife and they had their first physical relation. She had mentioned that those relations were against her wish. However, even thereafter, she placed trust on his representation and they started meeting frequently. She had mentioned in her FIR itself that she had established physical relations on many occasions at different places. It is her case that on some occasion he had even threatened to commit murder of her children. She has further stated that the applicant had defamed her by making false representations. It is her case that applicant had even threatened her daughter. On such allegations, the FIR was lodged.

3. Heard Mr. Gawankar, Ld. Counsel for the Applicant and Smt. Takalkar, Ld. APP for the State.

4. Mr. Gawankar submitted that the FIR shows that the relationship between the applicant and the informant was purely consensual and it was going on since the year 2014 and therefore,

no offence is made out against the applicant.

5. As against this submission, Ld. APP Smt. Takalkar submitted that it is a serious offence and consent of the prosecutrix was obtained under misconception of facts.

6. I have considered these submissions. I have perused the statement of the victim and the FIR. It shows that the relationship was going on since the year 2014. The prosecutrix has mentioned that they had their physical relations at various places on different occasions. Though, she has stated that the applicant had threatened her and her children and yet thereafter she had continued to have physical relations with him, therefore, at this stage, it is more than clear that these physical relations were voluntary and consensual. In this view of the matter, prime facie, no offence is made out against the present applicant. Therefore, he deserves to be released on bail. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. No.197/2019 registered at Warje Malwadi, Pune City, 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) The application is accordingly disposed of.

(SARANG V. KOTWAL, J.)