

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

ANTICIPATORY BAIL APPLICATION NO. 1891 OF 2019

Bhausahab Shivaji Bhosale

.... Applicant

Versus

The State of Maharashtra

.... Respondent

.....

Mr. Ritesh Thobde a/w Sagar Tambe, Advocate for Applicant.

Mr. Prashant Jadhav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 29th AUGUST, 2019

P.C. :

1. The applicant is seeking Anticipatory Bail Application in connection with C.R. No.213 of 2019 registered with Vairag Police Station, District Solapur under Sections 376, 315 and 201 of the I.P.C. The FIR is lodged by the prosecutrix on 4th July, 2019. It is mentioned in the FIR that in the year 2006 the prosecutrix was studying in school. When she was in Tenth standard the present applicant was a teacher and they developed physical relationship. Thereafter the prosecutrix had gone to Barshi for further education

and she had no contact with the applicant. After that she took education in Engineering College at Sangli. After that the applicant and she came in contact again and they revived their love affair. The FIR thereafter mentioned many occasions when they had physical relations. The prosecutrix was working in Dahisar. The applicant was in Pune and even then the prosecutrix was called to Pune and on some occasions they had sexual intercourse. It is further alleged that in the year 2015 she was pregnant and since the applicant had given her some pills, her pregnancy was aborted. She further alleged that in the year 2016 she had transferred Rs. 6 lakhs to his account. He purchased a flat on rent and even thereafter they had sexual relationship. In the year 2018 he purchased a flat in their joint name. The EMI's are paid through his salary. Even thereafter they had continued with physical relations. On this basis the FIR is lodged.

2. Heard Shri Thobde, learned Counsel for the applicant and Mr. Prashant Jadhav, APP for State/Respondent.

3. Shri Thobde pointed out that the statements in the FIR themselves show that it was a consensual relationship and no offence is made out. He submitted that, in fact, the applicant and the prosecutrix had got married but because of difference in the religions it was not legalized. He has relied on proceedings filed before the Civil Judge Senior Division i.e. Hindu Marriage Petition No. 603 of 2019. Therefore, he submitted that the applicant and the prosecutrix were living together.

4. The Learned APP opposed this application and relied on observations of Learned Additional Sessions Judge made in Criminal Bail Application No. 494 of 2019 wherein it was mentioned that the prosecutrix had lodged another FIR on 19/08/2019 at Paud Police Station, Pune, on the allegations that the applicant had entered in her flat without permission and had stolen the jewellery and passport. He, therefore, submitted that the applicant does not deserve anticipatory bail.

5. I have considered these submissions. The FIR indeed shows that there was consensual relationship and over a long period they were having their physical relations. The FIR does not show that there was any misconception of fact in the mind of prosecutrix. Therefore, in the present case prima facie no offence is made out. The fact that another offence is pending against present applicant pertains to different subject matter. The investigating agency that case can take appropriate steps. However, in the present case the applicant deserves to be protected by Anticipatory Bail though he will have to attend the Police Station and will have to co-operate with the investigation. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. No.213 of 2019 registered with Vairag Police Station, District Solapur, the Applicant be released on bail on his executing P.R. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station from 09/09/2019 to 11/09/2019 between 1.00 p.m. to 3.00 p.m. and shall co-operate with the investigation. Thereafter, he shall attend the Police Station as and when required.

(SARANG V. KOTWAL, J.)