

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

CRIMINAL BAIL APPLICATION NO. 2578 OF 2019

Manoj Madhusudan Berawala Applicant
Versus
The Union Territory of Daman and Diu
and Anr. Respondents

Mr. Sunny Punamiya i/b. SSP Legal and Co. for the Applicant.
Mr. H. S. Venegaokar, PP for the Respondent No.1
Mr. Prashant Jadhav, APP for the State/Respondent No.2.

CORAM :SARANG V. KOTWAL, J.
DATE :15th OCTOBER, 2019

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No. 134 of 2019 registered with Nani Daman police station on 23/08/2019, under section 376 of the Indian Penal Code.
2. The FIR is lodged by the prosecutrix herself. The applicant is arrested on 24/08/2019 and since then he is in custody. The investigation is almost over and learned Public Prosecutor states that the charge-sheet would be filed shortly.

However, the entire case only revolved around the statement of the victim herself. The victim in her FIR has stated that she was residing with her husband and son. About two years prior to the lodging of FIR, she got acquainted with the applicant and they developed love affair. It is her case in the FIR that, initially the applicant told her that they could stay together and there was no need to get married. The FIR specifically mentions that she out of her free will and accord stayed together with the applicant for considerable period and they had their sexual relations on number of occasions. It is her further case that then she started asking about marriage. At that time, allegedly, the applicant promised her that they could get married and six months were needed to get the informant/victim divorced. The prosecutrix wanted him to execute Memorandum of Understanding. The applicant on some pretext or the other avoided to execute any such Memorandum of Understanding and still continued with the relations. Suddenly from 16/08/2019 he deserted her and did not contact her. The prosecutrix realised that she was cheated and thus, she lodged this FIR.

3. Heard Shri. Sunny Punamiya, learned counsel for the applicant, Shri. Venegaonkar, learned counsel for the respondent No.1 and Shri. Prashant Jadhav, learned APP for the Respondent No.2.

4. Learned counsel for the applicant submitted that the victim was a married lady and to her knowledge, even the applicant was married and therefore, the marriage was a difficult proposition to start with. Her FIR clearly shows that she on her free will and without coercion kept physical relations with the applicant and at that time the applicant had suggested that they could live together without getting married. Thereafter, the informant/victim started raising issue of marriage and the applicant kept on giving excuses. He, therefore, submitted that no offence is made out against the applicant. Learned APP relied on the contents of the FIR.

5. I have considered these submissions. As rightly submitted by the learned counsel for the applicant, the FIR clearly shows that the victim was a willing and consenting party. She was aware of the marital status of the applicant and she herself was a

married lady. She was knowing the consequences of her acts. Therefore, at this stage, it cannot be said that the applicant on some false inducement or pretext forced her or misled her to keep physical relations. From the FIR it appears that, after initial period of togetherness, some differences cropped up between them resulting into lodging of this FIR. The applicant is already in custody since 24/08/2019. The investigation is almost over. No further purpose will be served by keeping the applicant in custody. In this view of the matter, I am inclined to grant bail to the applicant.

6. Hence, the following order :

ORDER

- (i) In connection with C.R. No. 134 of 2019 registered with Nani Daman Police Station, 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.)