

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

ANTICIPATORY BAIL APPLICATION NO. 1901 OF 2018

Sarfaraz Shoiab Khan

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Mr. S.R. Phanse I/by Mr. Akram Kapoor for the applicant.

Ms. G.P. Mulekar, APP for the Respondent-State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 22nd JANUARY, 2019.

P.C.

1. This is an application for anticipatory bail in connection with C.R.No. 574 of 2018 registered with Sakinaka Police Station for the offences punishable under Sections 376, 341, 323, 504 of Indian Penal Code.

2. The complaint was lodged on 29th August, 2018. It is alleged that complainant was acquainted with the applicant since June 2018. It is further alleged that on 23rd July, 2018 the applicant accused has demanded sexual favour which was refused by the complainant. Applicant then promised her that he would marry her and had forcefully committed sexual intercourse with her. Thereafter both of them had gone to Akshay Hotel on seven to

eight times and there was sexual relationship between them. Subsequently, the complainant learnt that the applicant is already married and he refused to marry her. The applicant also abused and assaulted her.

3. Learned advocate for the applicant submitted that the relationship was consensual. He relied upon several whatsapp messages exchanged between complainant and the applicant.

4. Learned APP submitted that the whatsapp message are not part of investigation. The First Information Report clearly indicate that the accused had forcefully committed sexual intercourse with the applicant on 23rd July, 2018. It is submitted that father of the complainant was threatened by the unknown person. He was warned that complaint lodged by his daughter should be withdrawn. It is further submitted that complainant had tried to commit suicide on account of objectional photograph clicked by the applicant. However, on perusal of the FIR dated 29th August, 2018, it can be seen that allegations with regard to photographs and attempted suicide are not reflected. The message exchanged between both the parties and the photographs annexed to the application shows that the relationship was consensual.

5. Applicant was granted interim protection vide order dated 18th September, 2018. He was directed to report to the Investigating Officer from 24th September, 2018 to 28th September, 2018 between 10 a.m. to 12 noon. Learned counsel for the applicant submits that he has complied the said directions and co-operated with the investigation. Learned counsel for the applicant also submits that while reporting the police station, the applicant has handed over his cell phone and whatsapp conversation between the applicant and the victim to the Investigating Officer.

6. Learned APP submits that NC complaint was lodged by the father of the victim. Learned advocate for the applicant submits that applicant had lodged the NC complaint against the victim and her family members.

7. Considering the fact that the applicant has attended the police station and for the reasons stated herein above, interim order dated 18th September, 2018 can be confirmed. Hence, I pass the following order.

ORDER

- i. Anticipatory Bail Application is allowed;
- ii. Interim order dated 18th September, 2018 stands confirmed;
- iii. In the event of arrest in C.R. No. 574 of 2018 registered with

Sakinaka Police Station, the applicant be released on bail on furnishing PR Bond in a sum of Rs.20,000/- with one or more sureties in the like amount;

iv. Application stands disposed off.

(PRAKASH D. NAIK, J.)