

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Anticipatory Bail Application NO. 2037 OF 2019

Shankar Vijay Navaghane

...Applicant

Versus

The State Of Maharashtra

...Respondent

....

Mr. Satyavrat Joshi i/b. Sunil S. Kamble, Advocate for the Applicant.
Smt. A.A. Takalkar, APP, for the Respondent-State.

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CORAM : SARANG V. KOTWAL, J.

DATE : 19th SEPTEMBER, 2019

P.C.

1. The applicant is seeking anticipatory bail in connection with C.R. No.249/2019 registered with Vimantal Police Station, Pune under Sections 376, 354, 323, 504, 506 of I.P.C.
2. The FIR is lodged on 13.6.2019. The FIR is lodged by the prosecutrix herself. She has stated that she was married in the year, 2004 and she had a daughter from her marriage. Since the year 2009 she was residing separately from her husband because the husband had deserted her. She was residing with her brothers. She has stated that in the year 2016, she was working in a mall at Viman Nagar. The applicant was an auto-rickshaw driver and they

got acquainted. The applicant used to drop her home after her duty hours. They developed good friendship. It is further mentioned in the FIR that the applicant proposed to her but she had refused. It is further mentioned that he had threatened to harm himself or cause harm to the informant's daughter. It is the case of the informant that she was trying to avoid answering to his proposal. On one occasion, at his instance, they had their first sexual intercourse in a rickshaw. Thereafter she has described that they were in physical relationship for three to four years and they had visited different lodges. It is her case that the applicant used to avoid the subject of marriage. In May, 2019 she came to know that the applicant was already married. On 8.6.2019, when she was returning home, the applicant was waiting for her. When he was trying to drag her towards him, her younger brother Ravi was coincidentally passing from that road. He saw all this and questioned her about the same. Thereafter the informant told him about the applicant. Thereafter this FIR is lodged.

3. I have heard Shri Joshi, the learned Counsel for the applicant and Smt. Takalkar, the learned A.P.P. for the State. Learned Counsel for the applicant submitted that the FIR itself

shows that it was a consensual relationship and it was going on for three to four years. Therefore, custodial interrogation of the applicant is not necessary.

4. Learned A.P.P. relied on the statements made in the FIR.

5. I have considered all these submissions. The FIR itself shows that the relationship was consensual. It is difficult to believe that right from the beginning the informant, either under threats or under false promise of marriage had consented to such a relationship. Moreover they had visited different lodges. She had not resisted him on all these occasions. This shows that she was a willing and consenting party. It appears that only after her brother saw them together, this FIR was lodged. In such a situation it is difficult to see how the offences, as alleged, are committed by the present applicant. The first informant was well aware that she herself was a married lady and she had not obtained divorce from her husband. Therefore, there were difficulties in performing marriage between the applicant and the informant. In this view of the matter, considering all these circumstances, the applicant's custodial interrogation is not necessary and he deserves protection

of anticipatory bail. Hence, the following order :

O R D E R

- (i) In the event of his arrest in connection with C.R. No.249/2019 registered with Vimantal Police Station, Pune, 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.)