

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

ANTICIPATORY BAIL APPLICATION NO. 2044 OF 2019

Kashinath Yallappa Bhajanwale	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Jaydeep D. Mane, Advocate for Applicant.
Smt. S. S. Kaushik, APP for the State/Respondent.
Mr. R. J. Mane, API, Saswad Police Station, Pune, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 20th SEPTEMBER, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 289 of 2019 registered with Saswad Police Station, Pune on 05/08/2019 under sections 376 and 506 of the Indian Penal Code.
2. The FIR is lodged by the prosecutrix. She has stated that she was a married lady and was residing with her husband and three children. The applicant was friend of her husband. The prosecutrix was well acquainted with the applicant. She has stated

that, on 04/06/2019 she had come to Mumbai to take part in an agitation. The applicant called her on mobile phone and asked her to come to Saswad S. T. Stand. Thereafter he took her to a lodge. He booked a room and they had their first sexual intercourse. Though she has alleged that he had threatened to kill her, she has also stated that they were in the lodge for about an hour. Thereafter she came back to the place where her cousin and daughter were waiting. Then the prosecutrix was taken to another lodge by the applicant and between the period from 05/06/2019 to 10/06/2019 they had their sexual intercourse on few more occasions. Every time the prosecutrix was sending her cousin to eat something. The FIR further mentions that on few more occasions they had their sexual intercourse in the lodge. It is further alleged that, after few days the applicant stopped meeting her and, therefore, she lodged this FIR.

3. Heard Mr. Jaydeep D. Mane, learned counsel for the applicant and Smt. S. S. Kaushik, learned APP for the State/Respondent.

4. Shri. Mane submitted that from the FIR itself no

offence is made out against the applicant. Learned APP relied on the statement in the FIR.

5. I have considered these submissions and I have perused the FIR. The statements in the FIR clearly show that it was clearly a consensual relationship. Though, at some places she has mentioned that she was forced by the applicant, but her conduct shows otherwise. In fact, on many occasions they had gone to a lodge and had sexual intercourse. The prosecutrix on a few occasions was sending her cousin outside. Thus, obviously, she was a willing and consenting party. The applicant was well aware that she herself was married. The prosecutrix was aware of the consequences of her act. In this view of the matter, there is no question of custodial interrogation of the applicant. Therefore, the applicant is protected by anticipatory bail.

6. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R. No. 289 of 2019 registered with Saswad 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.)