

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 2267 OF 2018**

Mrs. Anis Kazmi

.....Applicant

Vs.

The State Of Maharashtra

.....Respondent

WITH**CRIMINAL APPLICATION NO. 1394 OF 2018****IN****ANTICIPATORY BAIL APPLICATION NO. 2267 OF 2018**

Miss. A.B.C.

....Applicant

In The Matter Between

Mrs. Anis Kazmi

.....Applicant

Vs.

The State Of Maharashtra

.....Respondent

Mr. A.M. Saraogi for the Applicant.

Mr. R.M. Pethe APP, for the Respondent-State.

Smt. Priyanka Dubey for the Intervenor.

CORAM : A. S. GADKARI, J.**DATE : 18th APRIL, 2019.****P.C.:-**

The Applicant is apprehending arrest in CR No. 355 of 2018 dated 9th October, 2018 registered with Varsova Police Station, Mumbai under Sections 376(N), 323, 504, 506 (2) of the Indian Penal Code.

2 Heard the learned counsel for the Applicant, the learned counsel for the first informant and the learned APP. Perused the charge-sheet and record of investigation.

By an order dated 31st October, 2018, the Applicant was granted interim relief.

3 The first information report is lodged by the prosecutrix aged about 29 years on the date of lodgment of the crime. The Applicant is sister of prime accused Haider Jamil Usain Kazmi.

The prosecution case in brief is that, the accused No.1 Haidar Kazmi and the prosecutrix were having acquaintance due to their respective professional business enterprises. That, in the month of June, 2012, when the prosecutrix had been to his office to meet him and to discuss business proposal, it is alleged that, the Applicant herein in connivance with prime accused administered stupefying substance in tea to the prosecutrix, due to which she felt dizziness. That, the accused No. 1 thereafter, directed the Applicant herein to go

outside the office and close its door and the accused No. 1, committed forceful sexual assault on the prosecutrix. It is the further prosecution case that, subsequently on 2 to 3 occasions, the accused No. 1 Haidar Kazmi committed sexual intercourse with the prosecutrix by administering threat that, he will publish the videography of the earlier assault on the social media. It is alleged that, the Applicant herein assisted accused No.1 Haidar Kazmi, lastly on 9th February, 2016. It is further alleged that, Haidar Kazmi continued with his acts of exploiting the prosecutrix and subsequently being fade up by the same, she has lodged the present crime on 9th October, 2018.

The aforesaid facts emerged on record from the first information report and the charge-sheet submitted by the police.

4 The learned counsel for the first informant submitted that, the facts narrated by the prosecutrix on 9th October, 2018 were not correctly recorded by the police at the first instance and therefore, she made representation to the higher authority and the correct version of the prosecutrix has been subsequently recorded by the police on 16th October, 2018. She submitted that, in her subsequent statement to the police, the prosecutrix has given in detailed the version of exploitation at the hands of co-accused Haidar Kazmi and

the assistance rendered by the Applicant herein to him. She, therefore, prayed that the present Application may be rejected.

5 As noted earlier, the allegation as against the Applicant is of rendering assistance to the principal accused Haidar Kazmi who is her real brother. As far as the allegation of administering stupefying substance to the prosecutrix is concerned, the said alleged act is of June, 2012. It *prima facie* appears that, the prosecutrix being an educated lady did not approach the police immediately with the said grievance. Even otherwise, after perusing the first information report and the supplementary statement of the prosecutrix, this Court is of the opinion that, the custodial interrogation of the Applicant for further investigation of the present crime is not necessary and the Applicant can be protected by pre-arrest bail.

Hence, the following order-

- a) In the event of arrest in CR No. 355 of 2018 dated 9th October, 2018 registered with Varsova Police Station, Mumbai, the Applicant shall be released on bail on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- b) The Applicant shall not tamper with the evidence

and/or pressurize the prosecution witnesses.

c) Application is allowed in the aforesaid terms.

6 In view of the disposal of the Anticipatory Bail Application No. 2267 of 2018, Intervention Application No. 1394 of 2018, does not survive and the same is accordingly disposed off.

(A.S. GADKARI, J.)