

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.987 OF 2020

Mubin S/o Lukman Maniyar,
Age : 37 years, Occu: Business,
R/o : Badri Colony Taloda,
Tq. Taloda, Dist. Nandurbar.

... Applicant
(Orig. Accused No.1)

VERSUS

State of Maharashtra,
through Taloda Police Station,
Taluka : Taloda, District : Nandurbar,

... Respondent

...

Advocate for Applicant : Mrs. R.S. Kulkarni
APP for Respondent/State: Mr. S.B. Narwade

...

CORAM : MANGESH S. PATIL, J.

DATE : 24.11.2020

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure in connection with Crime No.369/2020 registered with Taloda Police Station for the offence punishable under Sections 376, 376 (2)(n), 420, 468, 469, 471, 295A and 120B of the Indian Penal Code.

2. The FIR has been registered pursuant to a direction by a Magistrate under Section 156 (3) of the Code of Criminal Procedure in which complaint the prosecutrix alleged that she was subjected to sexual intercourse under the pretext of employing her as an Air Hostess in the year 2017. Some documents were got signed from her and under constant

threats the applicant continued to have the relations since 2017 till 2020. He even threatened her to circulate her images in objectionable condition.

3. The learned advocate for the applicant submits that there is enormous delay in lodging the complaint. In fact, the prosecutrix never approached police and has conveniently filed this private complaint soliciting a direction under Section 156 (3) of the Code of Criminal Procedure. She would further submit that in fact it was consensual relation. Both were married still decided to have the relation. The photographs clearly indicate that she was a willing partner. She never made any grievance rather converted herself and got married. The Marriage Certificate was also duly issued. She would then point out that it is only after the applicant filed a complaint with police against her and her paramour in the month of May 2020, with an ulterior motive to avoid arrest in connection with that crime that she preferred to file a private complaint instead of approaching police. The applicant has specifically alleged in that complaint about she having decamped with money and deceived him in having relationship without disclosing that she was already married.

4. The learned advocate for the applicant then submits that considering the aforementioned aspects, custodial interrogation of the Applicant is not necessary. He is ready to co-operate the Investigating Officer and the application may be allowed.

5. The learned APP strongly opposes the application. He submits that the allegations are serious. Going by the allegations particularly in

paragraph Nos. 7 and 12 of the complaint, he has made her to surrender under threats and even has threatened to circulate her images. His custodial interrogation is necessary to complete the investigation and the application may be rejected.

6. I have carefully gone through the papers of the Investigation. Without intending to indulge into scrutiny of material it is suffice to point out that though the allegations *prima facie* are serious, accepting them at their face value, the relations appears to have continued over a period of more than three years. The papers of the Investigation further demonstrate that the couple had undergone a ceremony seemingly of solemnization of a marriage. The photographs also apparently indicate that she was a consenting party in as much as her posture and appearance in all these photographs does not even give any clue of she being a victim. Couple of photographs are in fact selfies. The photographs produced by the applicant on the backdrop of historical monuments from different cities like Gateway of India and Taj Mahal further substantiate the version of applicant of the relation being consensual.

7. Apart from the above state of affairs, there is a statement of the brother of the prosecutrix recorded by the Investigating Officer, wherein, he has stated that he severed relationship with the prosecutrix after her questionable character started lowering his image in the public.

8. There is also statement of a witness who happens to be the employer of the prosecutrix to the effect that he had employed her in the

year 2017 and the applicant used to frequent to her at the place of work. They used to indulge in chitchat and he had to reprimand her several times which circumstances further corroborates the applicant's version of the relation being consensual.

9. Coupled with the above state of affairs, it is also conspicuous to note that it is only after the applicant filed complaint with police against her making allegations about having decamped with money and having deceived him into the relation by concealing her being a married lady that present complaint has been filed by her.

10. Considering the factual matrix, in my view it is a fit case where the applicant deserves to be granted anticipatory bail.

11. The application is allowed. In the event of arrest of the applicant in connection with Crime No.369/2020 registered with Taloda Police Station for the offences punishable under Sections 376, 376 (2) (n), 420, 468, 469, 471, 295A and 120B of the Indian Penal Code, he be released on bail on his executing personal recognizance for an amount of Rs.25,000/- and furnishing a solvent surety in the like amount subject to the following conditions:

- a) He shall attend the concerned police station on three consecutive Saturdays starting from 28.11.2020 between 12.00 noon and 2.00 pm and shall co-operate the Investigating Officer.

- b) He shall not tamper the evidence or influence the witnesses.
- c) He shall not make any attempt to communicate with the Prosecutrix or her relations.

(MANGESH S. PATIL, J.)

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