

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

ANTICIPATORY BAIL APPLICATION NO.204 OF 2020

Dnyaneshwar Kharat

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Shriram S. Chaudhari, for the Applicant.

Smt. Veera Shinde, APP for the Respondent- State.

ASI Surve, Pandharpur City Police Station, District- Solapur Rural,
present.

CORAM : PRAKASH D. NAIK, J.

DATE : 24th January, 2020

P.C.:

1. This is an application for Anticipatory Bail in connection with C.R.No.930 of 2019, registered with City Police Station, Pandharpur, District- Solapur, for offences punishable under Sections 376, 452, and 506 of the Indian Penal Code ('IPC' for short).

2. The First Information Report was lodged on 25th May 2019 by the victim who is married lady. It is alleged that, the applicant-accused is friend of the victim's husband. Applicant visited their house on 15th May 2019. The victim was at home along with two minor children and her husband was not in the house. The

applicant/accused visited the house of the victim at about 12 hrs. in the night. He had forcible intercourse with the victim. When her husband returned on 25th May 2019, she informed about incident to him and immediately thereafter, FIR was lodged. The applicant preferred an application for the Anticipatory Bail before the Sessions Court was rejected on 13th January 2020.

3. Learned counsel for the applicant submitted that, from the contents of the FIR it can be inferred that, the relationship was consensual. The victim did not shout at the time of incident. The First Information Report was lodged after ten days from the incident.

4. Learned APP submitted that, there is nothing on record to show that, the relationship was consensual. The victim had resisted the act but accused had forcible sexual relationship with her. After return of her husband, she narrated incident and immediately thereafter complaint was lodged.

5. On perusal of the FIR, it can be seen that, the victim was acquainted with the applicant/accused being friend of the husband. However, it can not be inferred that the victim was consenting party. The statement of the victim indicate that, she has resisted the act. Her husband is driver, who was not at home at the time of incident. As soon as he returned, she informed about the incident to him.

Thereafter, FIR was lodged. Children of the victim are minor. There is no other circumstance to infer that, the relationship is consensual. Hence, no case for grant of Anticipatory Bail is made out.

6. Anticipatory Bail Application No.204 of 2020 is rejected.

(PRAKASH D. NAIK, J.)