

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 225 OF 2020

Pravin Jagannath KateApplicant

v/s.

The State of MaharashtraRespondent

Mr. Aabad Ponda a/w. Ms. Nilofar Sayed a/w. Mr. Prashant Mairale i/by. Kishori C. Kelkar, Advocate for the applicant.

Mr. S.R. Agarkar, APP for the State.

Ms. Manisha Kashid, API Rabale MIDC, Navi Mumbai Police Station present.

CORAM : SANDEEP K. SHINDE, J.

Tuesday, 28 January, 2020.

P.C. :

1. Heard.
2. The applicant is apprehending arrest in FIR/C.R. No. 0364/2019 registered with Rabale MIDC Police Station for the offences punishable under Sections 376(2)(n) and 417 of the Indian Penal Code. Applicant has filed this application

under Section 438 Criminal Procedure Code.

3. Applicant is 28 years old, a Constable in the police force. Complainant is 30 years old. I have perused the FIR dated 30th December, 2019 and application-cum-complaint dated 8th December, 2019 filed with the Rabale MIDC Police Station, Navi Mumabi. In the present case, complainant alleged that applicant engaged in sexual relationship with her on the false promise to marry her and therefore it is submitted that her consent being premised on the "misconception of fact" was not a consent since under the guise of false promise, he had been sexually exploiting her since 2017 and had later secretly settled his marriage. When the complainant came to know about this fact, she filed a complaint against the applicant on 8th December, 2019 with the Senior Inspector of Police, Rabale MIDC Police Station. In the enquiry held by the Senior Inspector, a statement of the applicant was recorded on 20th December, 2019 wherein he admitted to the physical intimacy with the complainant.

4. I have perused the statement. It reveals

that the applicant had agreed to marry the complainant and he had settled all differences with her. In view of the statement of the applicant, the complainant had agreed to withdraw her complaint/application which is evident from her statement recorded on 20th December, 2019. Subsequently, the applicant performed his marriage with another girl and therefore the subject crime came to be registered against him.

5. The applicant has relied on the text messages between the applicant and the complainant to submit that it is not the case of false promise of marriage on misconception of facts.

6. After perusing the complaint-cum-application dated 8th December, 2019 and the statement of victim and the applicant, prima-facie, I am of the view that the applicant had no intention of upholding his word/promise at the time of giving it, not only to the complainant but even subsequently to the police authorities on 20th December, 2019. In view of the facts of the

case, no case is made out for granting pre-arrest bail. The Anticipatory Bail Application is rejected.

7. It is made clear that observations made hereinabove shall be construed as expression of opinion only for the purpose of refusal to grant bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)