

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

**ANTICIPATORY BAIL APPLICATION NO.957 OF 2019  
WITH  
CRIMINAL APPLICATION NO.696 OF 2019**

Shivam Avadhesh Kaushik

.. Applicant

***Vs.***

State of Maharashtra

.. Respondent

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Mr.Rahul Kate i/b. Mr.Rupesh A. Zade, Advocate for the Applicant.

Mr.H.J. Dedhia, APP for the Respondent – State.

Mr.Sumant Deshpande, Advocate for the Intervenor.

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**CORAM : PRAKASH D. NAIK, J.**

**DATED : FEBRUARY 14, 2020.**

**P.C. :**

Applicant is seeking anticipatory bail in connection with C.R.No.99 of 2019, registered with Kothrud Police Station, Pune City, for the offences punishable under Sections 376, 417 and 420 of Indian Penal Code (“IPC”, for short). First Information Report (“FIR”, for short) was lodged on 21<sup>st</sup> March, 2019.

2           The case of the complainant is that the applicant was her classmate from 2009 to 2012. They knew each other during that period. Subsequently, she shifted to Delhi and Mysore for

work and to pursue higher education. In January 2013, the applicant contacted her on Facebook and asked her for her cell phone number. She agreed and forwarded the number. She shifted back to Pune and was employed at Kharadi. Applicant contacted her and sent several messages. On 8<sup>th</sup> December, 2017, she was taken to Lonavala. Applicant gave assurance of marriage. She trusted him. The victim was taken to the residence of the applicant. Under the promise of marriage, the applicant had physical relationship with the complainant. They went to a lodge at Lonavala and stayed together. There was physical relationship between them. Subsequently, the applicant told her that he do not want to marry her. Thus, under the false promises of marriage, the victim was subjected to sexual assault. Complaint was lodged.

3            Applicant preferred an application for anticipatory bail before the Sessions Court at Pune. The said application was rejected by order dated 12<sup>th</sup> April, 2019.

4            Learned counsel for the applicant submits that the relationship was of consensual nature. The offence under Section 376 of IPC is not made out. The complainant is a major lady aged about 26 years. Admittedly, according to the complainant, they

were in relationship. The messages exchanged between the applicant and the complainant indicates the nature of relationship between them. Custodial interrogation of the applicant is not necessary. Applicant has been falsely implicated in this case. The applicant has cooperated with the investigation. Applicant filed additional affidavit dated 3<sup>rd</sup> February, 2020, stating that the applicant has submitted Laptop and two cell phones used by him for investigation. In 2017, he was using Moto G Plus mobile phone, which was purchased by him on 16<sup>th</sup> February, 2017, and till 6<sup>th</sup> April, 2018, he had used the said cell phone. Subsequently, the said phone was exchanged with Amazon Online Shopping and new mobile phone was brought on 6<sup>th</sup> April, 2018, which was also returned to Amazon and, thereafter, the applicant purchased Samsung Galaxy J7 Pro on 18<sup>th</sup> February, 2018, which was used till February 2019. Applicant has handed over the said phones for the purpose of investigation. Applicant had purchased new phone Samsung Galaxy M10 on 3<sup>rd</sup> March, 2019, which is also submitted to the investigating agency. Applicant had purchased Laptop on 12<sup>th</sup> September, 2018, which is also submitted to the investigating agency for the purpose of investigation. He was using the said Laptop and do not have any other Laptop. It is further submitted that a complaint refers to incident dated 18<sup>th</sup> March, 2018. At that

time, the applicant was used Moto G Plus Cell phone. The alleged incident had occurred when he was using Samsung Galaxy J7 Pro, which is submitted by him to the investigating agency.

5            Learned APP submits that the applicant has no intention to perform marriage. Under the false pretext of marriage, the complainant was forced to have physical relationship. Applicant has not cooperated with the investigation. The complainant in her subsequent statement has referred to the video recording. The applicant has not handed over the relevant Cell Phone and Laptop and instead handed over different phones and Laptop. Learned counsel for the intervenor submitted that the consent was procured by false promise. The applicant had no intention to marry victim. She was exploited under the pretext of marriage.

6            Victim is aged about 26 years, at that time of registering the FIR. From the tenor of FIR, it is apparent that victim and the applicant were acquainted with each other. There was physical relationships between them. FIR was lodged on 21<sup>st</sup> March, 2019. In the FIR, it is not alleged that the accused had circulated objectionable videos. Considering the factual aspect of

the matter, custodial interrogation of the applicant is not necessary. Applicant has cooperated with the investigation. He has handed over the cell phone and Laptop to the investigating officer hence case for grant of anticipatory bail is made out.

7                    Hence, I pass the following order:

**:: O R D E R ::**

- (i) Anticipatory Bail Application No.957 of 2019, is allowed;
- (ii) In the event of arrest of Applicant in connection with C.R.No.99 of 2019, registered with Kothrud Police Station, Pune City, he be released on bail on his executing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall attend the investigating officer as and when called for, till filing of charge-sheet;

- (iv) Anticipatory Bail Application stands disposed of;
- (v) Criminal Application No.696 of 2019, stands disposed of accordingly.

**(PRAKASH D. NAIK, J.)**