

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2723 OF 2019**

Avinash Ashok Padkonde ... Applicant

V/s.

The State Of Maharashtra ... Respondent

Mr. Siddhesh R. Samel for the applicant.

Mr. S.H. Yadav-APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J

DATED : 18th August, 2020.

PC. : (Through Video Conference)

. Heard by video conferencing.

2. This is an application under section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No. 804 of 2019 registered at Bhosari Police Station, Pimpri-Chinchwad for the offences punishable under section 376 of Indian Penal Code.

3. On 1st September 2019 the investigation is completed and charge-sheet is filed against the applicant for the offences punishable under section 376 of Indian Penal Code.

4. By an order dated 12th December 2019, the applicant was granted interim protection and the same was continued till today.

5. The facts of the case in a nutshell are as follows:-

. The prosecutrix had got acquainted with the applicant on a social media. They met each other. It is an admitted position that the complainant and the applicant were acquainted with each other since the year 2011. They had expressed love for each other. They had developed intimacy. On 11th February 2019 they had met at a hotel and thereafter they had been to Alandi. It is alleged that the applicant had forced himself upon her. The complainant had not made any complaint to her parents or anyone else. That, she was carrying pregnancy. The complainant had got married on 29th May 2019 and had started residing in her matrimonial home.

6. It is informed across the bar that the complainant had given birth to a baby boy. The blood samples of the applicant are taken for DNA analysis.

7. The First Information Report was lodged only on 1st September 2019. At the time of her marriage on 29th May 2019, the complainant was carrying pregnancy of almost three months.

8. The learned counsel for the applicant submits that, in fact, the applicant was ready and willing to marry the complainant. However, due to his low financial status, the complainant had got married to some other person.

9. In view of the above discussion, *prima facie*, it cannot be said that an offence under section 376 is made out. Even before the I.O. complainant had admitted that she was acquainted with the

applicant and that there was consensual sex between them.

10. In view of the aforesaid observations, applicant deserves pre-arrest bail.

ORDER

i) Anticipatory Bail application is allowed and disposed of.

ii) In the event of arrest, in Crime No. 804 of 2019 registered at Bhosari Police Station, Pimpri-Chinchwad, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000 (Rs. Twenty-Five Thousand Only), and one or more sureties in the like amount.

iii) The applicant shall report to the police station as and when called.

11. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on a digitally signed copy of this order.

(SMT. SADHANA S. JADHAV, J)