

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1268 OF 2021**

Ramdas Dattoba Thorat	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr. Sanjeev Savant i/b Abhishek P. Deshmukh for the applicant
Mr.Y.M. Nakhava, APP for the State.

**CORAM: BHARATI DANGRE, J.
DATED : 13th JULY 2021**

P.C:-

1 The applicant, working as Police Constable has approached this Court seeking protection from his arrest in connection with C.R.No. 27 of 2021 registered with Shivaji Nagar Police Station, Pune on 25th March 2021.

The said C.R is registered on a complaint being filed by the prosecutrix, resulting in invocation of offence punishable under Section 376, 504, 506 of the IPC.

2 The complainant, a widow, working as sweeper, aged 40 years approached the police station, and alleged that on one day she is a widow since 2015 and has two sons who are major.

She allege that in the year 2016, without reference to any particular date and time, the applicant who was working as Havaladar in Shivaji Nagar Police Station invited her to his room for the purpose of cleaning of the weapons by bolting the door of the room from inside, forcibly committed sexual intercourse with her. Thereafter, while she was desirous of approaching the police station for complaining about the sexual harassment, the applicant expressed his apology and assured her that he would pay her an amount of Rs.10,000/- every month and on his retirement, would continue to pay 20% of his pension to her and would take care of her throughout her life. Further allegation is to the effect that in the year 2017 and 2018, the applicant threatened to remove her from her job and he was insisting that she should marry him but she avoided the same since she had two major children. It is then alleged that the applicant threatened her which constrained her to approach the police station and lodge complaint.

3 Along with the application, the applicant has placed on record the Memorandum of Understanding executed between the applicant and the prosecutrix, which bear the signature of both of them and the document is notarized on 12th November 2020. On perusal of the terms and conditions of the said Memorandum of Understanding, it is apparent that the two share a friendly relationship which blossomed into a proximate one,

resulting into establishment of physical relationship. The understanding is entered into between two adults with some give and take being arrived at, including a clause that the prosecutrix would be entitled to institute proceedings if there is breach of any of the clauses of the said Memorandum of Understanding.

4 The incident which is complained of in the complaint is alleged to have taken place in the year 2016, but till the lodging of the complaint, after four years there is no allegation made by the complainant/prosecutrix against the present applicant. The relationship continued for years and it appear to have been crystallized by executing the Memorandum of Understanding. The relationship between the two could be *prima facie* seen as consensual, the prosecutrix being major and conscious of the consequences of her action. The applicant is presently in service and due to his retirement in the year 2022 and undisputedly has put in long years of service. the custodial interrogation of the applicant in the wake of the allegations and time lag, when it is instituted, do not warrant any custodial interrogation, but he is expected to co-operate in the investigation, since he is working with the police department and is conversant with the procedure for investigation and co-operation of the accused warranted for such an investigation. The applicant is therefore, entitled to be released on bail. Hence, the following order :-

ORDER

- (a) Application is allowed.
- (b) In the event of his arrest, the Applicant Ramdas Dattoba Thorat in connection with C.R.No. 27 of 2021 registered with Shivaji Nagar Police Station, shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (d) The applicant shall co-operate and attend the Investigating Agency as and called.

SMT. BHARATI DANGRE, J