

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

ANTICIPATORY BAIL APPLICATION NO.1609 OF 2021

Sunil Gajanan Mogre Applicant

versus

State of Maharashtra Respondent

.....

- Mr.Sudeep Singh, Advocate for Applicant.
- Mr.Ameet A. Palkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th JULY, 2021

(Through video conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.518/2021 registered with Vikhroli Police Station, on 23/06/2021 under sections 376(n)(2), 406 of the Indian Penal Code.

2. Heard Mr.Sudeep Singh, learned counsel for the Applicant and Mr.Ameet A. Palkar, learned APP for the State.

3. The FIR is lodged by the prosecutrix herself on 23/02/2021. She was 36 years of age at the time of lodging of the FIR. She was a married lady with children. In October 2016, she came in contact with the present Applicant. One of the children of the informant was handicapped. The Applicant started showing sympathy and also started helping the informant in looking after that child. He used to help them financially by giving grossery etc. Once the informant's other son had suffered burn injury. That time the Applicant had helped their family. The FIR further mentions that in December 2016, the informant was called by the Applicant. She was taken for a car ride. It is the case of informant that he assured to help her in her difficulties and established physical relations with her. It is her case that though she had refused, he still had physical relations with her. The FIR goes on to mention that the Applicant thereafter frequently kept physical relations with her at secluded spots in his car. There is allegation that at one point of time, the Applicant had taken Rs.20,000/- as financial help from the informant. The informant has stated that the Applicant

used to take her to district Ahmadnagar, where one of her sons was studying. After that suddenly she lodged FIR against him on 23/06/2021 alleging that the Applicant had kept physical relations against her will and that he had taken Rs.20,000/-.

4. Learned counsel for the Applicant submitted that bare reading of the FIR will show that it is a consensual relationship. He relied on a complaint given by the informant to the police before the FIR was lodged. In that complaint, there was a reference to the financial transaction only and there is no reference to the forcible physical relations.
5. Learned APP opposed this application relying on the averments in the FIR.
6. I have considered these submissions. The FIR itself shows that the informant had willingly developed relationship with the Applicant. The Applicant had helped her on various occasions. Though she has stated that the physical relations

were kept against her wish, the FIR shows that both of them were travelling in the Applicant's car at various places and they used to have their physical relations. Therefore it is difficult to believe that on all these occasions, physical relations were established by the Applicant against will of the informant. As rightly pointed out, the earlier complaint given by the first informant does not make any reference to allegations of rape. It is only pertaining to their financial dispute. In this view of the matter, sufficient doubt is created about the informant's allegations of commission of rape. Therefore Applicant's custodial interrogation is not justified. He can be protected by order of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.518/2021 registered with Vikhroli Police Station, the Applicant is directed to be released

on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)