

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 821 OF 2020

Siddesh Chandrakant Nandgaonkar . . . Applicant

V/s.

The State of Maharashtra
(through Senior Inspector of
Police, Manpada Police Station) . . . Respondent

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Dr. Mr. Samarth S. Karmarkar a/w. Mr. Rahul Shelke,
a/w. Ms. Supriyanka Mourya i/by. Karmarkar &
Associates, *Advocate for the applicant.*

Mrs. Veera Shinde, *APP for State.*

CORAM : SANDEEP K. SHINDE, J.

Thursday, 7th January, 2021.

P.C.:

1. Heard learned Counsel for the applicant and learned APP for State.
2. Apprehending arrest in connection with Crime No.41/2020 registered under Sections 376(2)(n), 417 and 506 of the Indian Penal Code, the applicant is seeking pre-arrest bail.

3. Applicant is 20 year old student; whereas victim is 28 year old. She runs a beauty parlour at Mumbai. She alleged, complainant had made false promise of marriage and forced her into physical relationship. It is further alleged that, her consent was obtained on the pretext of marrying her which the applicant knew since inception that, it was a false promise. Complaint was lodged on 23.01.2020. However, there is one document at page-29 of the paper-book allegedly executed by the victim on 13.1.2020. It appears therefrom that, differences between the applicant and the complainant were settled by the family members of both and thus she had agreed not to lodge the complaint.

4. Be that as it may, the complaint, prima-facie suggests that the complainant voluntarily submitted herself to the physical desires of the applicant.

5. I have perused the investigation record to ascertain the observations made by the learned Sessions Judge in para-6 of his order dated 9.11.2020. In this para, learned Judge has referred to, two obscene photographs of the complainant, submitted by the complainant when applicant's anticipatory bail application was heard, projecting, same were clicked by the applicant without consent. Therefore to say, complainant attempted to improve her case, making allegations that, applicant was likely to circulate her obscene photos. When I enquired with the learned APP, about the photographs, it is informed on instructions that, photographs were clicked by the complainant herself which she sent to the applicant and produced it before the Court. Learned APP, on instructions, further confirms, that handset of the applicant and the complainant were sent for forensic

report but no objectionable material was found stored in both the devices.

6. Thus, from the facts of the case and the submissions made by the learned APP, what appears is that, the complainant attempted to fabricate the evidence against the applicant to ensure that he is not being granted anticipatory bail. This conduct of the complainant, therefore assumes importance while exercising discretionary jurisdiction under Section 438 of the Criminal Procedure Code. Besides, it is also submitted by the APP, on instructions that, complainant is reluctant to mark her presence in the police station to further the investigation.

7. Thus, in consideration of the facts of the case, age of the applicant and the conduct of the

complainant, in my view, a case is made out for granting pre-arrest bail to the applicant.

8. The application is therefore granted on the following conditions :

ORDER

(i) In the event of arrest of the applicant in Crime No. 41/2020 registered with Manpada Police Station, he shall be released on bail on executing PR bond for the sum of Rs.20,000/- (Rs. Twenty Thousand only) with one or more sureties in the like sum.

(ii) The applicant shall report to the Investigating Officer on second and fourth Monday of each month commencing from January, 2021 between 11:00 a.m. to 1:00 p.m. till the charge is framed.

(iii) The applicant shall furnish particulars of his permanent residential address and contact details to the Investigating Officer within a week.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

9. The application is accordingly allowed and disposed of.

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