

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 1282 OF 2019**

Ravi Atmaram Chinhole

.....Applicant

Vs.

The State Of Maharashtra

.....Respondent

Mr. P.G. Jagdale for the Applicant.

Mr. Y.M. Nakhwa APP for the Respondent-State.

Mr. Malhar Thorat, PSI, Tulinj Police Station present.

CORAM : A. S. GADKARI, J.**DATE : 1st SEPTEMBER, 2021.****PC:-**

This is an Application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in connection with C.R. No.0013 dated 3rd January, 2019 registered with Tulinj Police Station, District Palghar for the offence punishable under Section 376 of the Indian Penal Code (for short, "*the IPC*").

2 Heard Mr. Jagdale learned Advocate for the Applicant, Mr. Nakwa learned APP for the Respondent-State. Perused record of investigation.

3 The first information report is lodged by the prosecutrix who was aged about 36 years on the date of lodgment of crime and a mother of 2 children. It is the prosecution case that, the Applicant and the prosecutrix

got acquainted with each other and there acquaintance blossomed into an affair. It is alleged that, on 27th November, 2018, when the prosecutrix and her daughter were at her house, the Applicant in the afternoon committed an act as contemplated under Section 376 of the IPC. The prosecutrix thereafter, initially lodged a complaint with the District Education Officer, District Buldhana on 1st January, 2019 and subsequently filed the present crime on 3rd January, 2019.

4 Mr. Jagdale, learned Advocate for the Applicant submitted that, there was an affair between the Applicant and the prosecutrix. That, the alleged act as contemplated under Section 376 of the IPC was a consensual act between two adult persons. He drew my attention to the photographs at page Nos.50 and 52 of the present Application to contend that, the prosecutrix willingly accompanied Applicant at various places of tourism and therefore her allegation that, the Applicant committed an alleged act on 27th November, 2018 has no substance in it, as they were in relation since the year 2016. He submitted that, the present crime is registered after a lapse of 37 days by the prosecutrix. That, the prosecutrix is an educated lady and therefore, she could have filed the present crime immediately and without waiting for 37 days. He submitted that, both were divorcees.

He further submitted that, as a matter of fact, the Applicant was maintaining the prosecutrix and her two daughters which are begotten from her earlier marriage upto December, 2018. He therefore submitted

that, the Applicant may be granted pre-arrest bail by allowing present Application.

5 Perusal of record and the photographs annexed to the Application indicates that, the prosecutrix willingly accompanied the Applicant at various places of tourism. The Applicant and prosecutrix were in relationship since the year 2016 and after their relations got soured, the prosecutrix has filed the present crime. It further *prima facie* appears that, the alleged act committed and as contemplated under Section 376 of the IPC was a consensual act between two adult persons. The investigation of the present crime is already completed and the Investigating Agency has submitted charge-sheet in the Court of Competent jurisdiction on 23rd March, 2020.

6 In view of the above, the custodial interrogation of the Applicant for further investigation of the present crime is not necessary and he can be protected by pre-arrest bail. Interim relief granted by Order dated 17th June, 2019 is hereby confirmed.

Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR
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by SANJIV
SHARNAPPA
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