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

ANTICIPATORY BAIL APPLICATION NO. 2651 OF 2019

Shekhar Ramesh Chaudhary ..Applicant
vs.
The State of Maharashtra ..Respondent

Mr.Prashant Aher, for Applicant.
Mr.Ajay Patil, APP for State.

CORAM : M. S. KARNIK, J.

DATE: SEPTEMBER 27, 2021

P.C. :

. Heard learned Counsel for the applicant. The alleged offence is under section 376(2)(n) and section 406 of the Indian Penal Code. The applicant is apprehending arrest in connection with the Crime no. I -351/2019 registered with Khadakpada Police Station.

2. The date of FIR is 14/10/2019. The complainant is an Architect. It is alleged that under a promise of marriage, the applicant sexually assaulted the complainant.

3. This Court by order dated 03/12/2019 prima facie

observed that upon perusal of the complaint and the whats-app messages exchanged by and between the complainant and the applicant, it appears that there was consensual relationship between the applicant and complainant. This Court therefore granted interim protection. In the meantime, the applicant was directed to report to the Investigating Officer once in a week commencing from 09/12/2019 between 10.00 a.m. to 12.00 noon or 11.00 a.m. to 1.00 p.m. till further orders.

4. Learned Counsel for the applicant submits that he is co-operating with the investigation in terms of directions of this Court. There is nothing on record to indicate that the applicant has not complied with the directions of this Court.

5. I have gone through the FIR and text messages which are enclosed along with the application. The text messages at page 67 indicates that the applicant and complainant knew each other even prior to June 2017 and exchanged whats-app messages even thereafter.

6. In the FIR dated 14/10/2019, the complainant has stated that it is in the year 2018 that her profile was posted on

'Jeevansathi.com'-website as she wanted to get married. Considering the materials in the nature of whats-app chats, it appears that even prior to 2018, complainant and the applicant knew each other. The complainant has alleged that in the year 2018, her profile was uploaded on the website as she wanted to marry and it is thereafter that there are allegations of sexual assault. From the narration, it is seen that the applicant and the complainant met on several occasions and had sexual relations. Learned Counsel for the applicant relied upon the decision of the Hon'ble Supreme Court in the case of **Pramod Suryabhan Pawar Vs. State of Maharashtra and anr. (2019) 9 SCC 608** to contend that the "Consent" of a woman with respect to section 375 involves active and reasoned deliberation towards the proposed act. He submits that the applicant and complainant knew each other even prior to June 2017, whereas in the FIR, it is stated that she became acquainted with the applicant only after July 2018 pursuant to her profile for matrimony posted on the website. This appears to be a case of consensual relationship. Moreover, it is pointed out that even charge-sheet has been filed. The applicant has co-operated with the investigation. Hence, custodial interrogation of the applicant is not required. Hence, the following order.

ORDER

- i) The interim order passed by this Court is confirmed.

 - ii) In the event of arrest of the applicant in connection with Crime Register No. I-351 of 2019 registered with Khadakpada Police Station, the applicant be released on bail on furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.

 - iii) The applicant shall not in any manner try to contact the complainant or any person acquainted with her or tamper with the prosecution case.
7. Application is disposed of.

(M.S. KARNIK, J.)