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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1192 OF 2022

**RAM S/O PRABHAKAR @ PRABHU JADHAV
VERSUS**

THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Kulkarni Vaibhav B.

APP for Respondent/State : Mr. V.M. Kagne

Advocate for Respondent No.2 : Mr. Avinash R. Borulkar

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CORAM : S.G. MEHARE, J.

DATED : 27th SEPTEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicant, learned APP for the State and learned counsel for the complainant/victim.
2. The victim is 29 years old and the accused is 28 years old. The victim has a case that she met the applicant first time at Sugarcane Factory at Karad. Both were there for sugarcane cutting. They had exchanged their phone numbers, then they went to their villages. Thereafter, the applicant was continuously calling her on phone. When she was not picking up his phone, he was threatening her that if she did not pick up his phone, he would tell something bad about her to her father-in-law. It has also been alleged that on 25.07.2022, the applicant called her at about 12 'o' clock in night and forced her to come forthwith to one village. He told her that if she would not come, he would go to her home and spoil her life. Hence

under the threat and fear, she went there. Thereafter, he took her on motorbike to one town. They stayed there in lodge. He did forceful sex with her. She opposed him but he threatened her to kill. In the morning, he took her to another town. Again they stayed there in a lodge and he did sex with her. Thereafter, they went from one place to another. Then he received the phone on 30.07.2022. He left her at village Chausda and threatened her to go to the police station and state that in the fit of anger, she had left the home. If she would not state it before the police, he would kill her and her daughter. Hence, she has given statement to the police station that she has no complaint against the applicant. Thereafter, she went home, told the incident to mother and thereafter she lodged the report.

3. Learned counsel for the applicant has argued that the applicant never threatened the complainant. They were well acquainted with each other even prior to meeting at Karad. The complainant never resisted the company of the applicant. She voluntarily went with him and forced to have a sex with him. He never threatened her to state before the police that she had no complaint against him. He never threatened her to kill her and her daughter. However surprisingly, she lodged a false report against the applicant. Nothing is to be recovered from the applicant. Hence, he may be released on anticipatory bail.

4. Learned APP has strongly opposed the application contending that the complainant is consistent and she has narrated the same history in the statement under Section 164 of the Criminal Procedure Code. She was continuously under the threat of the applicant. She was afraid, therefore, she did not resist. She never had a free consent. The offence is serious hence, the applicant is not entitled to the anticipatory bail.

5. Learned counsel appearing for the complainant/victim has vehemently argued that the narration of the complainant indicates that she was under the continuous threat of the applicant. She wanted to save the life of her daughter and also her family. The offence is apparently serious. There is great possibility of threats and the forceful sex in future also. Hence, the application may be rejected.

6. The FIR reveals that the complainant left the house at odd hours for five days. She was taken to various places on motorbike. In these five days, she had ample opportunity to seek the help or run away from the custody of the applicant. Barely alleging that she was under the pressure is not suffice. There should be some material. She also had an opportunity not to pick up the phone of the applicant at odd hours. Surprisingly within these five days, the family members of the complainant have also not lodged the missing report. Why she went to the police station stating that she has no complaint

against the applicant is a suspense. Considering the facts in entirety, it does not inspire confidence that the applicant took her under the threat of her life and her daughter. She was major and married. In absence of any strong material about going to the police station and giving statement in favour of the applicant, the allegations cannot be believed. That apart, there are no allegations of causing any injury by weapon. Therefore, the application deserves to be allowed. Hence, the following order :

ORDER

(A) Application is allowed.

(B) In the event of arrest, the applicant, Ram Prabhakar @ Prabhu Jadhav, be released on anticipatory bail, on executing P.B. and S.B. of Rs.15,000/- (Fifteen Thousand) with one solvent surety in the like amount in Crime No.235 of 2022, registered with Beed Rural Police Station, District Beed for the offence punishable under Sections 376, 376(2)(n) and 506 of the Indian Penal Code, on the condition that he shall not contact the victim by any mode or manner till the conclusion of the trial.

(S.G. MEHARE, J.)