

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

CRI. ANTICIPATORY BAIL APPLICATION NO. 269 OF 2022

Sandeep Sukhdev Burute	..Applicant
Vs.	
The State of Maharashtra	..Respondent

Mr. Abhishek R. Avachat, for the Applicant.
Mr. Y. Y. Dabke, APP for the Respondent / State.
PSI Sandesh S. Ingale, Talegaon Dabhade Police Station, Pimpri
Chinchwad.

MAMTA
AMAR
KALE

Digitally signed
by MAMTA
AMAR KALE
Date:
2022.02.04
18:02:24
+0530

**CORAM : C.V. BHADANG, J.
DATE : 4 FEBRUARY 2022
(Through Video Conferencing)**

P.C.

. By this Application, the Applicant is seeking anticipatory bail, in connection with investigation of Crime No.18/2022 of Police Station Talegaon Dabhade, Pune, under Section 376(2)(n), 328, 506 and 313 of IPC.

2. The prosecution case, as disclosed from the complaint lodged by the victim who is aged about 24 years and happens to be the sister-in-law of the Applicant (the maternal cousin sister of the wife of the Applicant) is that, the Applicant had administered some stupefying substance to her in a cold drink and had sexual

intercourse with her and had obtained her nude photographs. On subsequent occasions, the Applicant by threatening the victim of circulating the photographs, had sexual intercourse with her on multiple occasions, at different places and hotels.

3. It appears that subsequently the victim had married on 20 August 2021 and immediately thereafter as she was found to be carrying a pregnancy of 20 days, she informed this fact to the Applicant who sent an amount of Rs.5,000/-, asking her to abort the pregnancy. On the basis of the complaint dated 7 January 2022 lodged by the victim, an offence is registered, which is under investigation.

4. I have heard the learned counsel for the parties. Perused record.

5. The learned counsel for the Applicant submitted that there was a love affair between the Applicant and the informant which is evident from the What's App messages, the copies of which are annexed with the Application. In short, according to the learned counsel, the sexual relations were consensual in nature and the victim being major and having attained the age of consent, no offence is made out.

6. Learned APP has pointed out that according to the victim, she was coerced into having sexual relations on the point of circulation of the explicit photographs which were obtained when the Applicant had first sexual relations with her after administering her stupefying substance. Thus, it is submitted that the consent cannot be said to be a free consent. Learned APP also pointed out that it is transpired during investigation that whenever the Applicant had taken to the victim to a hotel / lodge, the name of the wife of the Applicant was entered by the Applicant. He submits that custodial interrogation of the Applicant is necessary.

7. I have considered the submissions made. A specific query was made to the learned counsel for the Applicant that whether the Applicant is ready and willing to surrender. However, the learned counsel for the Applicant informs that the Applicant would invite an order on merits.

7. Although, the victim is stated to be major, however, *prima facie*, it appears that in the first incident, the Applicant had intercourse with her according to her, after she was administered some stupefying substance and the subsequent incidents are after coercing her, on account of a threat of circulation of the photographs. Thus, the consent cannot *prima facie* be said to be free or an informed consent. The proper investigation of the offence is

the paramount consideration, at this stage for which custodial interrogation of the Applicant is necessary. In the result, the Criminal Application is rejected.

C.V. BHADANG, J.