

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.393 OF 2022

Mahesh Kokate	...Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr.Shantanu R. Phanse for the Applicant.
Mr.A.R. Kapadnis,APP for the Respondent-State.
Mr.S.A. Mohite, PSI, Arnala Sagari Police Station.

CORAM : C.V. BHADANG, J.

DATE : 16 FEBRUARY 2022

P.C.

. The Applicant, apprehending arrest, in connection with the investigation of Crime No.372 of 2021 registered with Arnala Sagari Police Station, under Section 376(2)(n) and 420 of the Indian Penal Code is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint dated 25 November 2021 lodged by the prosecutrix who is a lady aged about 35 years. The Applicant and the prosecutrix were working in the same company. Both, the Applicant as well as the prosecutor are married. However, according to the first informant on 2 April 2021 the Applicant had sexual intercourse with her at Nisarg Resrot, Virar on the promise of marriage. According to the first informant the

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Applicant informed him that he is staying separate from his wife since the year 2014 and assured her of a marriage after getting divorce from his wife. She also stated that the Applicant assured her to transfer certain property in her name. The perusal of the FIR shows that prior to 7 to 8 months from the FIR the Applicant had sexual intercourse with her on 8 to 10 occasions at different places.

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

4. It is submitted by the learned counsel for the Applicant that the relationship was consensual and the informant was knowing that the Applicant was married and had voluntarily kept the relations. It is pointed out that the main reason shown by the learned Sessions Judge while refusing to grant anticipatory bail is that the medical examination of the Applicant is required to be conducted.

5. The learned Additional Public Prosecutor on instructions from the Investigating Officer states that in the event this Court is inclined to favorably consider the Application the Applicant be directed to report to the Investigating Officer and to make available himself for medical examination and surrender his mobile phone, if required.

6. I have considered the circumstances and the submissions made. Looking to the nature of the allegation the custodial introgation may not be warranted in such case. Hence the following order is passed.

ORDER

(i) In the event of his arrest in connection with investigation of Crime No.372 of 2021 registered with Arnala Sagari Police Station, the applicant shall be released on bail on executing a P.R. Bond in the sum of Rs.25,000/-with one or two solvent sureties in the like amount.

(ii) The applicant shall report to the Investigating Officer on 21 and 22 February 2022 between 11.00 am to 1.00 p.m. and as and when called by the investigating officer and shall co-operate with the Investigating Agency.

(iii) The applicant shall surrender his mobile phone and shall make himself available for medical examination, if required by the Investigating Officer.

(iv) The applicant shall not make any attempt to directly or indirectly to contact the first informant and other prosecution witnesses and shall not

otherwise tamper with the prosecution evidence/witnesses.

(v) In the event of breach of any of the conditions the bail is liable to be cancelled.

(vi) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.