

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.748 OF 2022**

Rajeev Brij Kishor Verma	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

**WITH
INTERIM APPLICATION NO. 1127 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.748 of 2022**

Shweta Amit Chaudhari	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr. Aabad Ponda, Sr. counsel with R.N. Gaonkar i/b Pravin Singh for the applicant.
Mr.Rizwan Merchant for intervenor.
Mrs.Anamika Malhotra, APP for the State.
API Tushar Baviskar from Oshiwara police station.

**CORAM: BHARATI DANGRE, J.
DATED : 27th JUNE, 2022**

P.C:-

1 The present applicant was admitted to protection from arrest on 23/3/2022 by recording that the allegation made by the prosecutrix against him is that he was subjected to rape in

the year 2018 and the FIR is lodged in the year 2022. It is also recorded that prosecutrix is major and considering the delay in lodging a complaint as well as looking to the nature of allegations, a case is made out for grant of interim bail.

2 The applicant was directed to report to the Investigating Officer on the given dates and the learned APP state that he has rendered his co-operation in the investigation. Her statement to the prosecution u/s.166 has been recorded. She is also subjected to medical examination.

 The learned APP state that the applicant has rendered his co-operation in the investigation.

3 The learned counsel for the complainant Mr.Merchant would vehemently submit that whether the complainant has consented or not, is a matter which require a deep consideration.

4 Per contra, the learned senior counsel Mr.Ponda would submit that the complainant was aged 39 years and the applicant is aged 64 years. He would also rely upon certain extracts from the Whatsapp chat, to demonstrate that the relationship was consensual. In any case, whether for that particular incident, when the complainant allege that she was forced into sex and whether her consent was free or not, is a matter to be determined at the time of trial.

5 The apprehension expressed by Mr.Merchant that the witnesses have not come forward to record their statement, also do not come from the side of the prosecution.

 In the wake of the above, by continuing the condition nos.(iii) and (iv) in the order dated 23/3/2022, the order is made absolute.

 The applicant shall also continue to render co-operation with the investigation.

 In view of disposal of ABA, IA NO.1127/22 do not survive and is disposed off.

(SMT. BHARATI DANGRE, J.)