

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1676 OF 2022**

Ashish Ashok Chakor

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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Dr.Samarth S. Karmarkar with Mr.Haresh R. B. i/b Karmarkar & Associates for the Applicant.

Ms.Anamika Malhotra, A.P.P. for the State/Respondent.

Mr.Anil L. Nanaware, PSI attached to M.H.B. Colony Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 24th JUNE, 2022

P.C:-

1. The applicant is apprehending his arrest in C.R.No.462 of 2022 lodged with M.H.B. Colony Police Station for the offences punishable under Sections 376(2)(n), 376(2)(h) and 417 of the IPC. The complainant is a girl aged 22 years, who was briefly acquainted with the present applicant. Somewhere in the year 2019, when she alongwith her friend had visited a residential premises of a third friend, the applicant is alleged

to have committed forcible sexual intercourse with her. When she opposed, he expressed that he likes her and in any case, he is going to marry her. Thereafter, on multiple occasions, the act was repeated.

The complainant herself has narrated the repeated incidents when they indulged into sex, on an assurance by the applicant that he is going to marry her. The complainant conceived and was found to be carrying six weeks' pregnancy. She immediately contacted the applicant, but he refused to take up any responsibility and on the other hand, attributed her a bad character and alleged that she is in relationship with some other person. Repeatedly she kept requesting the applicant to marry her, but he refused.

2. Upon such a complaint, referring to the incidents occurring between 17/05/2019 to 27/04/2022, the complaint has been lodged. As far as the last incident is concerned, even on 27/04/2022, the complainant states that he had forcibly committed sexual intercourse with her.

3. Reading of the complaint would reveal that the girl, who is major, developed a liking for the applicant, but her version as far as the sexual relationship is concerned, is that she permitted it, since the applicant gave a promise of marriage.

The sexual relationship was established on multiple occasions on the promise of marriage. However, when the girl conceived, the applicant attributed infidelity, but once again committed forcible sexual intercourse with her on the last date as mentioned in the complaint.

4. Merely sharing friendly relationship with a girl do not permit a boy to take her for granted and construe it as her consent to establish physical relationship. In today's society when a man and woman are working together, it is quite possible that proximity may develop between them, being either mentally compatible or confiding in each other as friends, ignoring the gender, since friendship is not gender based. However, this friendship with the person of fairer sex, does not confer a licence upon a man to force himself upon her, when she specifically refuse copulation. Every woman expects 'Respect' in a relationship, be it in the nature of friendship based on mutual affection. Here is the applicant, who is accused of maintaining sexual relationship on the pretext of marriage, but when the complainant conceived, he walked out alleging that pregnancy carried by her is on account of her relationship with other persons.

The accusations faced by the applicant definitely require a thorough investigation to ascertain the version of the prosecutrix that she was forced to give her consent for sex.

The application is rejected.

(SMT. BHARATI DANGRE, J.)