

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1769 OF 2022

Amit Ashok Midha	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Ms. Manali Samant, for the Applicant.
Smt.A.A.Takalkar, APP for the State.
Mr.Vinayak Kutti for the Complainant.
WAPI Nandini Bansode,Oshiwara Police Station present.

CORAM : BHARATI DANGRE, J

DATE : 6th OCTOBER, 2022.

P.C. :

1] The learned APP has placed on record supplementary statement of the victim girl which is recorded almost 8 months after recording of her statement which resulted into registration of subject CR.

2] In the statement dated 30.01.2022, the prosecutrix allege that she has been duped of some amount by the Applicant who was acquainted with her since 2015 and from 2020 she was working with him on the promise that he would share the profits of the real estate broker agency. In the first complaint, she allege that they were sharing profit arising out of the business which they were undertaking and they were into relationship and had decided to solemnize the marriage.

She has even stated that since they were otherwise getting married , they were residing together and rent of the premises was paid by the Applicant.

She then states that in January, 2021, she was made to transfer an amount of Rs.60,000/- and thereafter various amounts to the tune of Rs.7,32,780/- were transferred to the Applicant.

Her case is, both the families were aware of their relationship and since she trusted him as matrimonial relationship was to be established between them, she kept on parting with money.

3] Supplementary statement of Prosecutrix was recorded on 13.01.2022 wherein she state that on the pretext of marriage, the Applicant established physical relationship with her and this has prompted the Investigating Officer to invoke Section 376 of the IPC, in addition to earlier Sections i.e. 420, 323, 504 and 506 of the IPC.

4] From reading of the complaint it is apparent that, the complainant is a woman aged 31 years and she was on friendly terms with the Applicant for last 7 years. She has admitted in the first complaint that they were staying in live-in-relationship, which obviously included physical relationship. However, she states that there was no consent accorded by her for establishing physical relationship.

Prima-facie relationship between the Applicant and the prosecutrix appears to be consensual, both being major and capable of understanding consequences of the act.

5] The aforesaid circumstances do not warrant custodial interrogation of the Applicant. This is, however, subject to certain stipulations that the Applicant shall not try to establish any contact with

the prosecutrix and shall not threaten her or pressurize her from prosecuting her case.

Hence, the following order is passed :

ORDER

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.224/2022 registered with Oshiwara Police Station, the applicant Amit Ashok Midha shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall report to the concerned police station as and when called for.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to the prosecutrix so as to dissuade her from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (e) The Applicant is restrained from posting any comment/material on social media which would amount to defaming each other.

[BHARATI DANGRE, J]