

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

ANTICIPATORY BAIL APPLICATION NO.2068 OF 2021

Ashish Uday Shivalkar

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

....

Mr. Sanjiv P. Kadam with Mr. P.P. Raut and Ms Varsha Thorat for the Applicant.

Ms A.A. Takalkar, APP for Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 23rd MARCH, 2022.

P.C.:-

1. This is an application under Section 438 of the Cr.PC. filed by the Applicant for pre-arrest bail apprehending his arrest in C.R. No.378 of 2021 registered with Dindoshi Police Station, Mumbai for the offences punishable under Sections 376, 420 and 506 of the IPC.

2. Heard Mr. Sanjiv Kadam, learned counsel for the Applicant and Ms A.A. Takalkar, learned APP for Respondent-State. Perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by the prosecutrix. Perusal of the FIR prima facie indicates that the

Applicant and the prosecutrix met in the year 2018. They got close to each other and since 2019 they have indulged in sexual relationship. The prosecutrix has stated that the Applicant had proposed to marry her despite her health issues. Subsequently, the Applicant refused to marry her on the ground that he had not got the divorce decree. The prosecutrix also claims that she had given loan of Rs.35,00,000/- to the Applicant and that he has refused to repay the same. Based on these allegations, crime has been registered against the Applicant for the aforesaid offences.

4. The records indicate that the prosecutrix is 41 years of age. She was in physical relationship with the Applicant since the year 2019. The records prima facie reveal that relationship was consensual. Though the prosecutrix has stated that the Applicant owes to her sum of Rs.35,00,000/- till the date of the FIR, the prosecutrix has not issued any notice to the Applicant demanding the money. It is an admitted fact that the Applicant and the prosecutrix were running computer classes. The question whether money transaction between them was in relation to the said business or whether it was paid as hand loan, will have to be decided on merits. Even otherwise the Applicant was on interim bail from 01/09/2021. He has reported to the police and has been interrogated. The Applicant is a teacher and permanent resident of Borivali, Mumbai,

hence there is no possibility of the Applicant absconding and/ or thwarting the course of justice. Considering the above facts and particularly the nature of accusations and the material in support thereof in my considered view this is a fit case for grant of pre-arrest bail.

5. Under the circumstances, the application is allowed on following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R. No.378 of 2021 registered with Dindoshi Police Station, Mumbai, the Applicant shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (ii) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.
- (iii) The Applicant shall not interfere with the Complainant and/or her family members and shall not tamper with the evidence in any manner.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)