

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2137 of 2022**

Hemen Shah	Versus	.. Applicant
The State of Maharashtra		.. Respondent
...		

Mr. Rahul Arote for the applicant.
Mrs.A.A.Takalkar, APP for the State.
Mr.Girish Kurane for the intervenor.
PSI Smt.Sindhu Mandle from Kopar Khairne police station.

**CORAM: BHARATI DANGRE, J.
DATED : 10th AUGUST 2022**

P.C:-

1 The applicant is apprehending his arrest in C.R.No. 314/2022 registered with Kopar khairne police station on 8/7/2022, which invoke Section 376(2)(n), 417 IPC.

2 The narration in the complaint is from 8/7/2017 to 16/2/2022, and the complainant allege that she was introduced to the applicant since she was working in a Bar. The acquaintance developed into a relationship and on passage of time and there used to be frequent meetings between them. The applicant is alleged to have expressed his love towards the complainant and established physical relationship with her against her will and on

the pretext that he is going to solemnize marriage with her. In the year 2017 also, she was taken to a Hotel and an impression was given to her that he is unmarried and soon, the marriage would be performed. The incident was repeated on several occasions, which resulted into the complainant conceiving in March 2021. The applicant accompanied her for the medical test and when she was repeatedly insisting that the marriage shall be performed, he gave evasive answers. She delivered a child in November 2021 and kept on insisting that the marriage shall be performed.

3 The prosecutrix narrate that she found the details about the applicant from the Facebook Account and she realized that he is already married and when she confronted him, he fled away from his house by taking the car. It was revealed to her that the marriage was performed 10 years back and this resulted in lodging a report with the concerned police station. The subject C.R invoke Section 376(2)(n), which make the offence of sexual assault, punishable if it is repeatedly committed and the punishment prescribed is for a term which shall not be less than 10 years, but may even extend to Imprisonment for Life.

The applicant is also charged u/s.417 of IPC.

4 The learned counsel for the applicant submits that the child born out of the relationship is not his, and he has specific instructions to make a statement to that effect.

Looking to the accusations faced by him, and particularly when the narration of the complainant is that out of the relationship maintained with the applicant, she conceived and a child was born and when there is a blanket denial by the applicant about the paternity of the child, the custodial interrogation is very much necessary, since the offence which has been invoked, call for a punishment for minimum period of 10 years and even which may extend to Life Imprisonment.

Application is rejected.

(SMT. BHARATI DANGRE, J.)