

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

ANTICIPATORY BAIL APPLICATION NO. 2309 OF 2021

Sagar Ladu Gawas	 Applicant
v/s.	
The State of Maharashtra and anr.	 Respondents

Mr. Pravin Desai for the Applicant.
Mr. Archit Sakhalkar for Respondent No.2.
Ms. G.P. Mulekar, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 24th AUGUST, 2022.

P. C. :-

1. This is an Application under section 438 of Cr.P.C. for pre-arrest bail in C.R.No.134/2021 registered with Dodamarg Police Station, Sindhudurg for offences punishable under sections 376(2)(k)(n), 313, 420 of the Indian Penal Code.

2. Heard learned counsel for the Applicant and learned APP for the State. I have 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. A perusal of the FIR reveals that the prosecutrix is a widow with a seven year old child. The accused is a married man with two daughters. The FIR reveals that the Applicant used to visit the

prosecutrix and they have indulged in sexual relationship since the year 2017. The relationship prima facie appears to be consensual. The prosecutrix was well aware that the Applicant is a married man. Hence, the contention that the Applicant had promised to marry her and/or that she had sexual relationship with the Applicant under misconception of fact, prima facie cannot be accepted. In my considered view, prima facie, the offence under section 376(2)(k)(n) is not made out.

4. As regards termination of pregnancy, the prosecutrix has alleged that she was pregnant and that the Applicant had compelled her to terminate her pregnancy against her wish. The pregnancy was terminated in the year 2019. The FIR is lodged in the year 2021 i.e., after the Applicant refused to divorce his wife and marry the prosecutrix. The offence of cheating is not prima facie made out. Hence, the Applicant cannot be declined bail for recovery of money which was allegedly paid to the Applicant in the year 2017.

5. Considering the above facts and circumstances, this is not a case which would justify custodial interrogation. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicant in

C.R.No.134/2021 registered with Dodamarg Police Station, Sindhudurg, he shall be released on bail on furnishing P.R. bonds in the sum of Rs.20,000/- with one or more sureties in the like amount ;

(b) The Applicant shall report to the Investigating Officer for three days from 05/09/2022 from 10:00 a.m. to 01:00 p.m.

(c) The Applicant shall not interfere with the prosecutrix, her family members and the other prosecution witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

(d) 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.

6. Application stands disposed of.

PREETI
H JAYANI

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PREETI H JAYANI
Date: 2022.09.13
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(SMT. ANUJA PRABHUDESSAI, J.)