

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2385 OF 2021

SNEHA
NITIN
CHAVAN

Digitally signed by
SNEHA NITIN
CHAVAN
Date: 2022.02.09
18:24:27 +0530

Amol Prakash Dabade

..Applicant

V/s.

The State of Maharashtra

..Respondent

Mr. Satyadev Joshi for the Applicant.

Mr. Y.Y. Dabke, APP for the Respondent/State.

H.C. T.S. Walkoli attached to Chikhali Police Station present.

CORAM : C.V. BHADANG, J.

DATE : 9 FEBRUARY 2022
(Through Video Conferencing)

P.C.

1. The Applicant, apprehending his arrest, in connection with the investigation of Crime No. 310 of 2021 registered with Chikhali Police Station, Pimpri-Chinchwad Dist. Pune under Section 376(2)(n), 417, 323 and 506 of I.P.C. is seeking pre-arrest bail.

2. The aforesaid crime is registered on the basis of the complaint dated 30.06.2021 lodged by the victim girl, who was then 21 years of age. The informant was working in Reliance Mart at Pune and had met the Applicant while traveling in a train from Pune to Mumbai. She claims that both of them exchanged their mobile numbers and got acquainted, which turned into a

love relationship. According to the informant, the Applicant promised to marry her and on such a promise had forcible sexual intercourse with her. Subsequently, the informant learnt that the Applicant's marriage is already settled. It appears that subsequently, the marriage of the informant was also settled with one Chaitanya. It is alleged that the Applicant sent certain photographs of Applicant and the informant to the brother of Chaitanya. On the basis of such a complaint, the offence came to be registered which is under investigation.

3. I have heard the learned counsel for the parties. Perused record. The learned counsel for the Applicant strenuously urged that the informant had attained the age of consent and had voluntarily engaged into sexual relations with the Applicant and there is no element of coercion or compulsion. It is submitted that the Applicant's marriage was settled with a different girl and in view of that the informant got annoyed and out of that annoyance, the complaint is lodged. The learned counsel pointed out that the Applicant has reported to the Investigating Officer and has co-operated with the investigating agency and the custodial interrogation of the Applicant is not necessary.

4. The learned counsel for the Applicant submitted that the Applicant is in Government service and his service may be affected, if he is arrested.

5. The learned APP pointed out that the Applicant has not produced the mobile phone from which the alleged photographs of the informant and the Applicant were sent to the brother of Chaitanya with whom the marriage of the first informant was settled. The learned APP pointed out that the Applicant lodged the complaint dated 10.09.2021 with Police Station Gangakhed that his mobile phone having two sim cards bearing nos. 9921848300 and 844658300 has been misplaced/lost. It is submitted that the Applicant has not co-operated with the investigation and the custodial interrogation of the Applicant is necessary.

6. I have considered the submissions made. Although, the prosecutrix is shown to have attained the age of consent, prima facie, it appears that even after the Applicant and first informant had parted ways and were looking forward to settle in life with a different life partner, the Applicant sent some photographs of himself with the first informant to the brother of Mr. Chaitanya with whom the marriage of the Applicant was settled. Significantly enough after this FIR was filed, the Applicant reported to the Police Station Gangakhed that the mobile handset having both the sim cards as above has been lost. It is in this context, the contention on behalf of the prosecution has to be appreciated that the Applicant has not fully co-operated with the investigation and according to the learned APP in order to avoid

the production of mobile phone, which was the evidence of sending of the photographs, a complaint is lodged with Police Station Gangakhed of the mobile phone having being lost.

7. In my considered view, in such circumstances, although the earlier relations between the Applicant and the first informant may be consensual, what is significant is the subsequent conduct alleged by the first informant of the Applicant sending some photographs to the brother of her fiancé and thereafter, lodging a complaint about the mobile handset that the having been lost. In such circumstance, I do not find the case for grant of anticipatory bail, is made out.

8. The Criminal Application is accordingly rejected.

9. At this stage, the learned counsel for the Applicant on instructions states that two weeks time be granted to the Applicant to surrender.

10. In such circumstances, two weeks time is granted. Interim protection already operating to continue for a period of two weeks.

(C.V. BHADANG, J.)