

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2383 OF 2022**

Vikas Prakash Nandave .. Applicant

Versus

The State of Maharashtra .. Respondent

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Ms.Anima Mishra for the Applicant.

Ms.Anamika Malhotra, A.P.P. for the State/Respondent.

PI Supriya Patil, attached to Powai Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 29th AUGUST, 2022

P.C:-

1. The applicant is apprehending his arrest in C.R.No.846 of 2022, registered with Powai Police Station, at the instance of the prosecutrix, who is aged 35 years.

As per her version, when she reported to the police station on 28/07/2022, she stated that she had registered her name on various matrimonial site and one number, which was displayed, was of the applicant and, since, he expressed his desire to perform marriage and forwarded his bio-data, the complainant was impressed. They started chatting on phone and also shared the messages. They started meeting in person and it is alleged by the complainant that he even approached

to her parents and under the false information being supplied, convinced them to solemnize the marriage.

2. On one occasion, according to the complainant, the applicant induced her to make payment of Rs.4,50,000/- to one Sagar and Shubham, his friends on the pretext that there was income tax raid and all his bank transactions were blocked. On 12/01/2020, she was taken to a hotel and it is alleged that by booking a room, he committed forcible sexual intercourse with her. According to the complainant, she became unconscious and he took objectionable pictures of her and the videos were shown to her and when she asked to delete the same, he refused. WhatsApp group was created and some pictures were posted on the said group alongwith a joint photograph of them being uploaded as Display Picture on the said group. According to the prosecutrix, she did not approve of the said conduct. She insisted for performance of marriage, but it was avoided by the applicant by stating that either his mother or his sister are opposing the marriage.

3. The complainant reported about the said incident on 28/07/2022, much after the happenings of the events about which she has complained in her complaint and she has alleged that the applicant had cheated her for a sum of Rs.18,00,000/-, which was received by him on-line/cash transactions by himself and through his friends, Sagar and Shubham. That is why, apart from Section 376(2)(n), Sections 420, 323, 500, 504, 506 read with Section 34 are also invoked in subject C.R, against the applicant.

4. The happenings of the events which are complained of, are from 01/01/2018 to 28/07/2022. The prosecutrix is major in age, capable of understanding the consequences of her act and she herself has stated that she was friendly with the applicant. Whether she had accorded her willingness and consent for sexual intercourse is a matter of trial. However, delay in lodging the complaint is an important factor, which must be taken into account to consider whether the custodial interrogation of the applicant is necessary. Further, the statement of the prosecutrix has been recorded under Section 164 of Cr.P.C, where she reiterates her version in the complaint.

The learned A.P.P. states that a sum of Rs.1,00,000/- is received in the account of the applicant by a bank transaction and the complainant has not been able to give details about how she possessed Rs.18,00,000/-. Prima facie, since no proof of this is rendered by the complainant, no custodial interrogation is warranted. The applicant shall, however, render his co-operation to the investigating agency and shall also surrender his mobile. Hence, the following order.

: ORDER :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.846 of 2022 registered with Powai Police Station, applicant-Vikas Prakash Nandave shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall report to the concerned police station on 13th and 14th September, 2022 between

3.00 p.m. to 5.00 p.m. and, thereafter, as and when called for.

(d) The applicant shall surrender his mobile with the investigating agency.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)