

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

ANTICIPATORY BAIL APPLICATION NO.2541 OF 2021

Rohit Umesh Sathe

...Applicant

Versus

The State of Maharashtra and
Anr.

...Respondents

...

Mr. Nitesh Mohite i/b. Mr. Sachin T. Zalte for the Applicant.

Ms S.S. Kaushik, APP for Respondent No.1-State.

Mr. R.S. Sawant for Respondent No.2.

M.S. Pathak, API, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 25th AUGUST, 2022.

P.C.:-

1. This is an application under Section 438 of Cr.P.C. filed by the Applicant apprehending his arrest in Crime No.274 of 2021 registered with Vimantal (Airport) police station, District-Pune (city) for offences punishable under Sections 376, 377, 417, 420, 504 and 506 of the IPC.

2. Heard Mr. Nitesh Mohite, learned counsel for the Applicant, Ms S.S. Kaushik, learned APP for Respondent No.1-State and Mr. R.S. Sawant, learned counsel for Respondent No.2. 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 dated 07/09/2021 lodged by the prosecutrix. The Complainant has alleged that the Applicant had sexual intercourse with her without her consent and with a promise of marriage. She has also alleged that the Applicant had taken an amount of Rs.90,000/- on one pretext or the other. He subsequently refused to return the said money and refused to marry her. Hence, she lodged a complaint alleging rape and cheating.

4. Learned APP, under instructions states that the Applicant has returned the amount of Rs.90,000/- which was allegedly borrowed from the prosecutrix.

5. As regards the allegation of rape, the prosecutrix was 26 years of age. She was in physical relationship with the Applicant since 2018. The records prima facie indicate that the relationship between both the parties, who are adults, was consensual. Hence, prima facie, offence under Sections 376 and 377 of the IPC is not made out.

6. Considering the above facts and circumstances, the Applicant is entitled for pre-arrest bail. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in Crime No.274 of 2021 registered with Vimantal (Airport) police station, District-Pune (city) the Applicant is ordered to be released on bail on furnishing bail bonds in the sum Rs.25,000/- with one or two sureties in the like amount.
- (ii) The Applicant shall report to the concerned Investigating Officer as and when called for.
- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner.
- (iv) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact number(s), and /or change of residence or mobile details, if any, from time to time.

7. The application stands disposed of.

8. Learned counsel for the Applicant states that an amount of Rs.90,000/- has been deposited before the police station without prejudice to the rights and contentions of the Applicant. Said amount be deposited before the Trial Court with liberty to the prosecutrix to

apply for withdrawal. If such application is filed by the prosecutrix, the same shall be decided on its own merits after hearing the respective parties.

(SMT. ANUJA PRABHUDESSAI, J.)