

PMB

Digitally
signed by
PRADNYA
MAKARAND
BHOGALE
Date:
2022.12.16
20:04:00
+0530

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

ANTICIPATORY BAIL APPLICATION NO.3486 OF 2022

ONKAR RAMESH UPSHAM

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. Ashwinikumar Deore for applicant.

Smt. G. P. Mulekar, APP for State.

Mr. P. R. Jambhale, PSI, Virar Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 16, 2022.

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for pre-arrest bail in respect of the offence punishable under Sections 354, 354-A and 354-D of the Indian Penal Code, 1860 (hereafter "the IPC", for short) in connection with FIR No.0995 of 2022 dated 02/11/2022 registered with Virar Police Station.

3. The prosecutrix is 32 years of age. The applicant is 19 years of age. It is the contention of prosecutrix that the applicant befriended her on Facebook. The applicant was

trying to induce the prosecutrix, a married woman by giving a job offer. On 12/10/2022, the prosecutrix received a video call at about 4.00 p.m. from the applicant. She alleges that the applicant removed his clothes and made some obscene gestures. Thereafter on 01/11/2022, the applicant called the prosecutrix to Dadar. The applicant assaulted the prosecutrix after she refused his demand for physical relationship. Therefore, the FIR was filed on 02/11/2022.

4. The incident is of 12/10/2022. Even then the prosecutrix went and met the applicant on 01/11/2022. There is a delay in registering the FIR so far as the allegations under Sections 354, 354-A and 354-D are concerned which is registered on 02/11/2022. Prima facie this creates some doubt about the prosecutrix's version and the possibility of the alleged act of the applicant on the video call being consensual cannot be ruled out.

5. The prosecutrix has filed one non-cognizable offence No.2417 of 2022 with Dadar Police Station for offences punishable under Sections 323 and 504 of the IPC on 01/11/2022 on which date she did not disclose about the

earlier incident of 12/10/2022. The mobile phone of the prosecutrix containing the obscene photograph of the applicant is already with the Investigating Officer.

6. Learned counsel for the applicant submits that the applicant will surrender his mobile phone as well from which the video call was made.

7. Learned APP opposed the application.

8. In my opinion, the custodial interrogation of the applicant is not necessary in the facts of the present case. The applicant is willing to co-operate. The applicant is working in a Company. Hence, the following order :-

ORDER

(a) In the event of arrest of the applicant in connection with FIR No.0995 of 2022 registered with Virar Police Station, the applicant – Onkar Ramesh Upsham be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(b) The applicant shall report to the Investigating Officer on 18th and 19th December, 2022 between 10.00 a.m. and 1.00 p.m. and thereafter as and when called.

(c) The applicant shall report to the Investigating Officer on Monday of every month between 10.00 a.m. and 1.00 p.m. till the trial is over.

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

9. The Anticipatory Bail Application is disposed of.

(M. S. KARNIK, J.)