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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1142 OF 2023

Shubham Sudhakar Jadhav

...Applicant

vs.

The State of Maharashtra

...Respondent

....

Mr. Nitin Gaware Patil, for the Applicant.

Mr. Amit Mane, for the First Informant.

Mr. S.H. Yadav, APP, for the Respondent State.

Mr. Namdev Jadhav, P.I., Borivali Police Station, Mumbai.

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CORAM : ANUJA PRABHUDESSAI, J.

DATE : 19 APRIL 2023

P.C. :

This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in Crime No.135 of 2023 registered with Borivali Police Station, Mumbai City, for offence punishable under Section 376(2)(n) of the IPC.

2. Heard Mr. Nitin Gaware Patil, learned Counsel for the Applicant, Mr. Amit Mane, for the First Informant and Mr. S.H. Yadav, learned APP for the Respondent State. I have perused the records and

considered the submissions advanced by 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 prima facie reveals that the Applicant and the Prosecutrix were known to each other. They have had sexual relationship with each other several times in June/July 2022. The Prosecutrix was pregnant and had delivered a stillborn child. The Prosecutrix has alleged that the Applicant had promised to marry her and now he has refused to marry.

4. The record prima facie reveals that the Applicant and the Prosecutrix, both adults, had consensual relationship with each other. The FIR does not prima facie reveal offence of rape within the meaning of Section 375 of IPC. Hence, this is a fit case to exercise discretion under Section 438 of Cr.P.C. In the result, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R. No.135 of 2023 registered with Borivali Police Station, Mumbai City, the Applicant shall be released on bail on furnishing PR bonds in the sum of Rs.20,000/- with one or two sureties to the like amount;
- (ii) The Applicant is directed to report to the Investigating Officer

for two days on 24 and 25 April 2023 between 11.00 a.m. to 2.00 p.m. and as and when required by the Investigating Officer;

- (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 numbers, and/or change of residence or mobile details, if any, from time to time.

5. The application stands disposed of.

(ANUJA PRABHUDESSAI, J.)