

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

ANTICIPATORY BAIL APPLICATION NO.1227 OF 2023

Umesh Vasant Shinde

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Shailendra Pendse with Ms Varsha Banderkar i/b. Mr. C.S. Lamba
for the Applicant.

Ms Kokila Kalra for the Intervenor.

Mr. S.V. Gavand, APP for the Respondent -State.

Mr. Ganesh Andhe, PI, D.N. Nagar Police Station, present.

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CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th JULY, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant in Crime No.151 of 2023 registered with D.N. Nagar Police Station, Mumbai, for the offences punishable under Sections 376 and 420 of the IPC.

2. Heard Mr. Shailendra Pendse, learned counsel for the Applicant, Mr. S.V. Gavand, learned APP for the Respondent-State and Ms Kokila Kalra, learned counsel for the Intervenor. I have 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 lodged by the prosecutrix. The facts narrated in the FIR reveal that the Applicant and the prosecutrix had met on a matrimonial site and decided to get married.

4. The records prima facie indicate that the Applicant and the prosecutrix, both adults had indulged in consensual sexual relationship. The Applicant subsequently refused to marry the prosecutrix. In view of which the FIR has been lodged alleging rape and cheating.

5. As noted above, the material on record indicates that the relationship between the Applicant and the prosecutrix is consensual. Hence, offence of rape within Section 375 of the IPC is not made out. The fact that the Applicant has refused to marry would not per se attract offence of cheating.

6. Considering the nature of accusations, this Court by order dated 13/06/2023 had granted interim bail to the Applicant. Learned

APP states that pursuant to the said order, the Applicant appeared before the Investigating Officer and he has been interrogated.

7. Considering the above facts and circumstances, no case is made out for custodial interrogation. Hence interim bail granted by order dated 13/06/2023 stands confirmed.

8. The Applicant to appear before the Investigating Officer as and when required by the Investigating Officer for the purpose of investigation.

9. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)