

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

ANTICIPATORY BAIL APPLICATION NO.1370 OF 2023

Varun Singh ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Sumit R. Pandey i/b. Mr. Sudhir Bhardwaj for the Applicant.

Mr. R.M. Pethe, APP for the Respondent-State.

Mr. Tanaji Patil, PSI, Vanrai Police Station, Mumbai, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 4th MAY, 2023.

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P. C. :-

1. The Applicant apprehends his arrest in Crime No.93 of 2023 registered with Vanrai Police Station, Mumbai for the offences punishable under Sections 323, 354-C, 354-D and 376(2)(n) and 506 of the IPC.

2. Heard Mr. Sumit Pandey, learned counsel for the Applicant and Mr. R.M. Pethe, learned APP for the Respondent -State. 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 prosecutrix had initially lodged the FIR on 16/05/2023 at Naya Nagar Police Station, which was registered as FIR No.158 of 2023. It is stated that the said FIR was transferred to Vanrai Police Station and it was registered as 93 of 2023. The allegations in the FIR reveal that the Applicant and the prosecutrix, both adults, were known to each other since the year 2015. They have entered in sexual relationship since the year 2015. A perusal of the FIR reveals that on 16/03/2023 the Applicant objected to the prosecutrix talking to one Sham @ Santosh Chavan, Manager of the hotel, where the prosecutrix is employed. She claims that the Applicant assaulted her and when she refused to accompany him, he threatened her.

4. The relationship between the Applicant and the prosecutrix prima facie appears to be consensual. The FIR does not prima facie disclose the essential ingredient of rape within the meaning of Section 375 of the IPC.

5. Under the circumstances, this is a fit case to exercise the discretion under Section 438 of the Cr.P.C. in favour of the Applicant. Hence, the application is allowed on the following terms and

conditions:-

- (i) In the event of arrest of the Applicant in Crime No.93 of 2023 registered with Vanrai Police Station, Mumbai, the Applicant shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the Investigating Officer for a period of two days i.e. on 08/05/2023 and 09/05/2023 and thereafter as and when required by the Investigating Officer;
- (iii) The Applicant shall handover the mobile phone to the Investigating Officer;
- (iv) The Applicant shall not interfere with the prosecutrix or the witnesses in any manner;
- (v) 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.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)