

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

ANTICIPATORY BAIL APPLICATION NO. 1411 OF 2023

Bablu Jumman Shaikh

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Kareem Pathan, Mr. Khawaja Shaikh, Mr. S.M.M.
Owais T. Jahagirdar, Mr. Abhay Dolas, Mr. Mehboob Khan
and Mr. Ilyas Shaikh for the Applicant.

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

Ms. Rebecca Gonsalvez for Respondent No.2.

Mr. Vishal Raut, PSI, Malvani PS, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 20th JULY, 2023.

P.C. :-

. The Applicant apprehends his arrest in C.R.No.351/2023 registered with Malvani Police Station, Mumbai for offences punishable under section 376 of the Indian Penal Code.

2. Heard learned counsel for the Applicant, learned APP for the State and 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 Applicant and the first informant got acquainted with each

other some time in the month of January, 2023. The first informant claims that the Applicant who is a lawyer by profession, was helping her with her litigation. He represented to her that he was unmarried and promised to marry her. On 05/03/2023, the Applicant told her that he would come with his parents to discuss about their marriage. She claims that the Applicant came alone and that he had forcible sexual intercourse with her on the said date at about 04:30 p.m. Subsequently, he assured to marry her and called her to Bandra Court on 15/03/2023 to register their marriage. The Applicant did not come to the Court and thereafter, gave evasive replies. The first informant learnt that the Applicant is a married man. Hence, she lodged the FIR on 23/03/2023 alleging rape.

4. The case of the prosecution is that the Applicant, who is a married man had sexual intercourse with the first informant against her will and without her consent on a false promise of marriage. The records reveal that the Applicant and the first informant, both adults, were acquainted with each other. The material on record particularly whatsapp, chats, messages, prima facie indicate that the first informant was in constant contact with the Applicant not only after the alleged date of the incident but even after lodging the FIR i.e., even after

knowing that he is a married man. Hence, prima facie, the relationship appears to be consensual. In view of the above, no case is made out for custodial interrogation.

5. Under the circumstances, in my considered view, this would be a fit case to exercise discretion under section 438 of Cr.P.C. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.351/2023 registered with Malvani Police Station, Mumbai, he shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one or two sureties in the like amount ;

(b) The Applicant shall report to the Investigating Officer as and when required ;

(c) The Applicant shall not interfere with the first informant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

(d) 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.)

**PREETI
HEERO
JAYANI**

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