

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

ANTICIPATORY BAIL APPLICATION NO. 1501 OF 2023

Mohm. Asif Qureshi

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Ms. Sushma T. Mishra for the Applicant.

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

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 10th JULY, 2023.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No.I- 339 of 2023 registered with Tilak Nagar Police Station for offences under Section 376, 376(2)(n) and 420 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant, learned APP for the 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 FIR reveals that the prosecutrix, who is 32 years of age, is an divorcee. She got acquainted with the Applicant, sometime in the month of May 2022. She claims that the Applicant had promised to

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marry her. She has had sexual relationship with the Applicant first on 09.08.2022 and subsequently on the further dates. The first information report has been lodged only because the Applicant has refused to marry her. The facts narrated in the FIR reveal that the Applicant and prosecutrix, both adult, had indulged in consensual sexual relationship, which does not constitute rape within the meaning of Section 375 of IPC. Under the circumstances, the application is allowed.

- (i) Interim bail granted to the Applicant by order dated 23.05.2023, stands confirmed.
- (ii) The Applicant to report to the Investigating Officer as and when required.
- (iii) The Applicant shall not interfere with the Complainant and the other witnesses, or tamper with the evidence in any manner.

. **Application stands disposed of.**

(ANUJA PRABHUDESSAI, J.)