

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

ANTICIPATORY BAIL APPLICATION NO. 1812 OF 2023

Sunil Prataprai Daulani

..Applicant

v/s.

The State of Maharashtra

..Respondents

Mr. Ganesh Gupta a/w. Chitra Salunkhe for the Applicant.

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

Mr. Pradeep Mishra for the Intervenor.

CORAM : ANUJA PRABHUDESSAI ,J.

DATED : 30th JUNE, 2023.

P.C.

1. This is an application under Section 438 Cr.P.C. seeking prearrest bail in C.R.No.232 of 2023 registered with Mulund (West) Police Station , Mumbai, for offences under Section 376, 376(2)(f), 376(2)(n), 417, 506 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 facts narrated in the FIR prima facie reveal that the Applicant and the first informant were known to each other. The first informant was aware that the Applicant was a married man with a child, despite

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which she entered into physical relationship with the Applicant, allegedly in view of the assurance that the Applicant would divorce his wife and later marry her. The relationship between the Applicant and the first informant continued from 2017 till the year 2023. The Applicant subsequently refused to divorce his wife and marry her. Hence the allegations of rape and cheating.

4. The records prima indicate that the Applicant and the first informant, both adults, had indulged in consensual relationship. The first informant was aware that the Applicant was a married man with a child. Hence, there is no question of any misunderstanding or misconception of facts. Prima facie, the offence of rape within the meaning of Section 375 is not made out. Hence the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in Crime No.232 of 2023 registered with Mulund (West) Police Station, Mumbai, the Applicant be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two sureties in the like amount;
- (ii) The Applicant shall report to the Investigating Officer for two days on 3rd and 4th July, 2023, between 11.00 a.m. to 2.00 p.m.

(iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile/contact details, and/or change of residence or mobile/contact details from time to time.

(iv) 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.)