

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

ANTICIPATORY BAIL APPLICATION NO. 1811 OF 2023

Akshay Bhatt @ Akshaykumar Dashsrathbhai Bhatt ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Murtuza Najmi a/w. Mr. Aklakh Khan a/w. Mr.K.K.Tiwari for the Applicant.

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

P.I. Sadashiv Sawant from Kandivali Police Stn.

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 30th JUNE, 2023.**

P.C.

1. The Applicant apprehends arrest in Crime No.288 of 2023 registered with Kandivali Police Station, Mumbai for offences under Section 376, 376(2)(n), 504, 506 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant, and 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 had met on social media. The Applicant had proposed to marry her. On 8.2.2023, the first informant booked a room for the Applicant in a hotel at Kandivli and celebrated his birthday.

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Subsequently, they had sexual intercourse with each other. She has alleged that the Applicant had taken photos while they were having sexual relationship. The Applicant and the first informant also had sexual relationship on subsequent dates. Later the Applicant refused to marry her and abused her and threatened her to make the video viral. On the basis of the said allegations the aforesaid crime came to be registered.

4. The record prima facie reveals that the relationship between the Applicant and the first informant, both adults, was consensual. Prima facie, the essential ingredients of 'rape' within the meaning of Section 375 are not made out. Learned Counsel for the Applicant states that the Applicant had not taken obscene videos of the first informant and that he is ready to hand over the mobile phone to the Investigating Officer. Learned Counsel for the Applicant further states that the Applicant shall not make the photographs between him and the first informant viral on social media, nor will he make the photographs public in any manner. In the light of the said statement, and considering the nature of accusations, the Application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicant in Crime No.288 of 2023 registered with Kandivali 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 hand over his mobile phone as well as all the hard copies of the photographs taken, to the Investigating Officer.

(iv) The Applicant shall not interfere with the prosecutrix or any other witness, or tamper with the evidence in any manner;

(v) The Applicant shall not make the videos or photographs of the complainant viral on any social media or shall not circulate the same in any manner.

(vi) 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.

5. The photographs of the victim, produced by the Applicant be removed from the file and kept in a sealed cover.a

. **Application stands disposed of.**

(ANUJA PRABHUDESSAI, J.)