

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

ANTICIPATORY BAIL APPLICATION NO.2055 OF 2023

Pawan Raju Yadav

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Akhilesh Sing for the Applicant.

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

Mr. Abhijeet Newase, API, VB Nagar Police Station, Mumbai, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 24th JULY, 2023.

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P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.140 of 2023 registered with Vinoba Bhave Nagar Police Station, Mumbai, for the offences punishable under Section 376 of the IPC.

2. Heard Mr. Singh, learned counsel for the Applicant and Mr. Gavand, 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 complaint lodged by the prosecutrix. The facts narrated in the FIR prima facie indicate that the prosecutrix and her family members were residing in a room owned by the father of the Applicant. The Applicant and the prosecutrix got acquainted with each other and later their friendship turned into love relationship. They used to meet each other at different places. It is stated that on 07/05/2023 the Applicant and the prosecutrix met in a lodge at Kurla and that they had sexual relationship. The prosecutrix claims that the Applicant had assured to marry her. However, she was not willing since she wanted to complete her education. Subsequently, the Applicant and his family members went to the native place at Uttar Pradesh. He avoided receiving her calls and hence, the FIR.

4. The material on record prima facie indicates that the relationship between the Applicant and the prosecutrix, both adults, was consensual and hence, the same prima facie would not constitute offence of 'rape' within the meaning of Section 375 of the IPC.

5. Under the circumstances, this is a fit case to exercise discretion under Section 438 of the Cr.PC. Hence, the application is

allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R. No.140 of 2023 registered with Vinoba Bhave Nagar Police Station, Mumbai, he shall be released on bail on executing PR bonds in the sum of Rs.35,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the concerned Investigating Officer for a period of two days i.e. on 27/07/2023 and 28/07/2023 between 11.00 a.m. to 2.00 p.m. and further as and when required by the Investigating Officer for the purpose of investigation;
- (iii) The Applicant shall not interfere with the prosecutrix and her family members and or witnesses, in any manner;
- (iv) 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.)