

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

ANTICIPATORY BAIL APPLICATION NO.2280 OF 2023

Asif Tamanne Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Ms Apeksha Vora with Bhimanna Meti, Monisa Vsmani, Ms Reshma Chavan for the Applicant.

Mr. Sushant B. Ghadge for the Intervenor.

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

Mr. Amar Patil, IO, Santacruz Police Station, Mumbai, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 11th AUGUST, 2023.

P.C.:-

1. The Applicant seeks pre-arrest bail in C.R. No.584 of 2023 registered with Santacruz Police Station, Mumbai, for the offences punishable under Sections 376 and 417 of the IPC.

2. Heard Ms Apeksha Vora, learned counsel for the Applicant, Mr. Sushant Ghadge, learned counsel for the Intervenor and Mr. R.M. Pethe, 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 facts narrated in the FIR prima facie reveal that the prosecutrix and the Applicant were known to each other. The prosecutrix, who is a married woman, claims that she was in love with the Applicant herein and that the Applicant had agreed to marry her. She further claims that on 01/05/2023 they went to a hotel. She has alleged that the Applicant herein had sexual intercourse with her against her wish and without her consent. She has alleged that the Applicant subsequently refused to marry her.

4. It appears that the Applicant and the prosecutrix, both adults, have indulged in consensual sexual relationship. The prosecutrix herself is a married woman and her marriage was subsisting. Hence, the question of any misconception of fact does not arise.

5. Under the circumstances, this is not a case, which would justify custodial interrogation. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R. No.584 of 2023 registered with Santacruz Police Station, Mumbai, he is ordered to be released on bail on executing PR bonds in the sum of Rs.30,000/- 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 16/08/2023 and 17/08/2023 between 11.00 a.m. to 2.00 p.m. and thereafter as and when required by the Investigating Officer for the purpose of investigation;
- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the 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.)