

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

ANTICIPATORY BAIL APPLICATION NO.2620 OF 2019

Aniket Pawan Machrekar	.. Applicant
<i>Vs.</i>	
State of Maharashtra	.. Respondent

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Mr.Satyavrat Joshi, Advocate for the Applicant.

Mrs.A.A. Takalkar, APP for the Respondent – State.

Mr.Rishikesh A. Mohite, Advocate for Respondent No.2.

IO HC Digambar Rasal, Shirolu MIDC Police Station, Kolhapur,
present.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 28, 2020.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.240 of 2019, registered with Shirolu M.I.D.C. Police Station, Kolhapur, for the offences punishable under Section 376(2)(j), 376(2)(k), 323, 504 and 506 of Indian Penal Code (“IPC”, for short) and under Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act (“POCSO Act”, for short).

2 First Information Report (“FIR”, for short) was lodged on 13th November, 2019, by victim aged about 16 years 7 months. As per the version of the victim, applicant was acquainted with her. They developed friendship and fell in love. The applicant touched her inappropriately. The victim resisted by saying that she has not yet completed 18 years. In March 2019 they went out. When they were sitting in the bushes, accused subjected her to forcible physical relationship. He represented that he loves her, he would marry her after she attains age of majority. He gave her ring and chain and told her that she is his wife and had physical relationship with her. Subsequently, he tried to avoid her. He refused to marry her. The victim told him that she would disclose their relationship to her family. The victim informed her family about the incident in September 2019. Both the families met for deciding further course of action and performing marriage, however, the applicant refused to marry her. The victim was subjected to sexual relationship forcibly by false promise of marriage. Under the pretext of marriage she was exploited by the applicant. FIR was lodged.

3 The contention of the applicant is that there is no physical relationship between the applicant and the victim.

Although they were friends and they were in relationship. The applicant had never indulged in sexual relationship with the victim. It is contended that the applicant has taken the same stand before the Sessions Court while seeking anticipatory bail. In paragraph (E) of application, the applicant has stated that he categorically denies any sexual relations between him and the prosecutrix. The applicant never had any sexual relations with prosecutrix. In paragraph (F)", it is mentioned that the victim and the applicant were related to each other and the parents of the prosecutrix /victim wanted that the applicant should marry her and hence they have falsely implicated the applicant in this case.

4 Learned APP submitted that false stand has been taken by the applicant. The version of the applicant cannot be brushed aside at this stage. There was physical relationship between the victim and the applicant. The denial by the applicant would itself indicate that applicant intended to exploit the victim. During the course of investigation, the victim had provided recorded conversation on the cell phone between the applicant and the victim, which indicate that the victim was subjected to physical relationship. She was sexually assaulted. The

conversation infers that the applicant has accepted the position of physical relationship and now false contention is raised by denying such relationship. Medical evidence also indicate that the victim was subjected to sexual assault. The victim was minor at the time of offence. Hence, the application be rejected. Learned counsel for the intervenor supported submissions of learned APP. It is submitted that the applicant is deliberately denying the relationship as he is avoiding to perform marriage with the victim. The contention of the applicant is totally false. The application is based on false grounds and hence the reliefs under Section 438 of Cr.P.C. may not be granted to the applicant.

5 On perusal of the FIR, it can be seen that the victim has clearly stated that there was physical relationship under the pretext of marriage. The applicant has however denied the physical relationship. The victim has categorically stated that the applicant had induced her to have close relationship with him with the promises of marriage and, subsequently, he denied performance of marriage when the family members of the applicant as well as the victim were informed about their relationship.

6 I have perused the excerpts of the recorded conversation between the complainant/victim and the applicant. This form part of investigation. The version would indicate that the victim has stated therein that she was physically exploited by the applicant. The applicant has not denied the assertion of victim in the said conversation. On the contrary, the applicant accepts what he has done to victim. Learned APP also pointed out the medical report with regards to the examination of the victim and submitted that the observations therein supports the conversation of the victim. Thus, it is apparent that the applicant has not come with clean hands. False grounds are agitated. It is also clear that the victim was minor at the time of incident and she was sexually assaulted and exploited. In view of the aforesaid circumstances, the discretionary relief under Section 438 of Cr.P.C. cannot be granted to the applicant. Hence, application is rejected and stands disposed of accordingly.

(PRAKASH D. NAIK, J.)