

BDP-SPS-TAC

BHARAT  
DASHARATH  
PANDIT

Digitally signed  
by BHARAT  
DASHARATH  
PANDIT  
Date: 2021.12.01  
11:36:05 +0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
ANTICIPATORY BAIL APPLICATION NO. 872 OF 2021**

MOHIL JAYESH SHAH

....Applicant.

V/s

THE STATE OF MAHARASHTRA

.....Respondent

Mr. Ghanshyam Upadhyay a/w Dhireshpratap Singh a/w Mr. Anurag Mishra i/b Law Juris for the Applicant.

Mr. A.R. Kapadnis, APP for the Respondent/State.

PSI Nilesh Dhonde, Jogeshwari Police Station, present.

**CORAM: NITIN W. SAMBRE, J.**

**DATE: NOVEMBER 30, 2021**

P.C.:-

- 1] Heard Mr. Upadhyay, learned Counsel for the Applicant.
- 2] The victim claimed to have married with one Govind Sharma some five years back and shifted to Mumbai from Indore for her employment.
- 3] It is claimed that victim and Applicant became friends through face-book and the victim invited Applicant for a party on 27/11/2021 when the Applicant claimed to have committed sexual offence.

4] Mr. Upadhyay, learned Counsel for the Applicant while making out case for pre-arrest bail, would urge that relationship is consensual as it is the complainant who has forced herself on the Applicant. He would further urge that there is unexplained delay of two days in lodging the FIR and as such there is a chance to infer that Applicant is falsely implicated in the crime. He would claim that victim enjoyed drinks and food with the Applicant and thereafter she has lodged false offence against the Applicant with an intention to extort money.

5] Learned APP assisted by the Investigating Officer would oppose the prayer for grant of bail as, according to them, there is enough material on record to infer Applicant's prima facie involvement in the offence, as the victim in categorical terms attributed to the Applicant an active role in the commission of crime.

6] Considered submissions.

7] The victim claimed to have married with one Govind Sharma and resided in Indore. She appears to have shifted to Mumbai for her employment purpose and is residing in rented premises. Fact remains

that neither the complainant's status as that of employee nor her marital status is till date looked into by the investigating agency. The alleged incident preceded with interaction between the victim and the Applicant on e-social platform and it is the victim who invited Applicant to her place for enjoying drinks and food. It is claimed that incident had occurred in the intervening night of 27/11/2021 and next day evening she went to Police Station at around 7.00 P.M. and lodged a complaint. I am informed that about the said report, a station diary entry is made and offence came to be registered on 29/11/2021. Once the complaint moved by the Applicant discloses cognizable offence, there is no convincing reason coming forth from the victim so also from Investigating Officer as to why there is delay in registration of offence and sending the victim for medical examination immediately on 28/11/2021.

8] This Court is not inclined to go into the allegations of corruption made by the Counsel for the Applicant against the then ACP of the Police Station. What can be noticed is, investigation carried out, claim put-forth by the victim that before lodging FIR she had deliberations with her number of friends, face-book chats of the victim with the

Applicant prima facie suggest that cause which has resulted into offence is an outcome of the consensual relationship.

9] In the aforesaid backdrop, false implication of the Applicant cannot be ruled out. That being so, Applicant is entitled to pre-arrest bail.

10] In the event of arrest of the Applicant in C.R. No. 897 of 2020 registered with Jogeshwari Police Station for the offence punishable under Section 376 of the Indian Penal Code, Applicant be released on bail on executing P. R. Bond in the sum of Rs 25,000/- with one or two sureties in the like amount. Applicant shall neither directly or indirectly influence the prosecution witnesses nor tamper with the evidence. Applicant shall also not directly or indirectly try to contact the victim or her family members. Applicant shall surrender his mobile to the Investigating Officer.

11] Application is accordingly disposed of.

( NITIN W. SAMBRE, J. )