

**IN THE HIGH COURT OF MADHYA PRADESH AT INDORE****BEFORE****HON'BLE SHRI JUSTICE SUBODH ABHYANKAR****ON THE 12<sup>th</sup> OF APRIL, 2022****MISC. CRIMINAL CASE No. 15851 of 2022****Between:-**

**ABHISHEK S/O SHRI AZAD JI CHAUKSE , AGED  
ABOUT 25 YEARS, OCCUPATION: PRIVATE  
SERVICE R/O VILLAGE PANAGAR TEHSIL  
GADARWADA NARSINGHPUR P.S.  
GADARWADA DIST NARSINGHPUR AT PRESENT  
42, SIXTH BLOCK 20 MAIN ROAD CORE  
BUNGLOW P. S. KORAMANGALA  
(KARNATAKA)**

**.....APPLICANT*****(BY SHRI YOGESH KUMAR GUPTA, ADVOCATE)*****AND**

**THE STATE OF MADHYA PRADESH STATION  
HOUSE OFFICER THROUGH POLICE STATION  
VIJAY NAGAR (MADHYA PRADESH)**

**.....RESPONDENT*****(BY SHRI AMIT SINGH SISODIYA, G. A.)******(BY SHRI O. P. SOLANKI, OBJECTOR)***

*This application coming on for orders this day, the court  
passed the following:*

**ORDER**

They are heard. Perused the case-diary.

2] This is applicant's **first** application under Section 438 of Criminal Procedure Code, 1973 for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.203/2022

registered at Police Station Vijay Nagar, Indore (MP) for offence punishable under Sections 376(2)(N), 328, 313, 506 and 34 of IPC.

3] The allegations against the applicant are that on 15.02.2022 an FIR was lodged against him by the complainant/prosecutrix at Crime No.203 of 2022 alleging that she was friends with the present applicant and came to know him in the year 2016 and used to meet him for the purpose of studies only. However, at one point of time he called her to his room and offered her cold drink and after drinking of which she fell unconscious and thereafter he committed rape on her. When she came into her senses she saw that her clothes were removed by the applicant and when she asked him about the same, he told her that he has had sexual intercourse with her and had also made a video of the same and if she informs to any other person, he would viral the same. Being afraid, the prosecutrix put on her clothes and went to her house. However, subsequently the applicant kept on committing rape on her on the threat that he would viral her video with him. In the year 2017 when her stomach was having some problem, she went to a Life Line Hospital, Indore where she was treated and it was found that she is pregnant. When the applicant came to know about her pregnancy, he again threatened her and forced her to terminate the pregnancy and got it terminated and thereafter he again started having physical relationship with her. When the prosecutrix protested against the same and threatened him that she would inform this to her parents, he called his brother from Jabalpur, who also showed her a knife and told her to do whatever his brother asks her to do. Thus, she kept on following

the dictates of the present applicant and again got pregnant. However, this time she went to one Dr. Aparna Jain, who also gave her some medicines and thus her pregnancy was again aborted. Thereafter the applicant stopped meeting her and subsequently her father engaged her to a boy from Indore on 14.01.2022, but someone sent the applicant the aforesaid information and thereafter from various mobile phones the applicant has started harassing her parents, her uncle and her fiancé and his family by sending messages, photographs and also threatened them that if the prosecutrix marry some other person, he would viral her videos and photographs.

4] Counsel for the applicant has submitted that the applicant has been falsely implicated in the case on account of the prosecutrix's leaving him for some other boy, he has also considered to commit suicide and has also made a video clip of the same as the family of the prosecutrix and her fiancé's family all are bent upon to harass him by lodging false report against him. It is further submitted that prior to the aforesaid FIR, the prosecutrix had also lodged another FIR on 05.02.2022 itself at Crime No.49 of 2022 under Sections 294 and 506 of IPC against the present applicant that he is threatening her family and her-in-laws. Thus, it is submitted that had it been a case of rape, there was no reason for the prosecutrix not to mention the aforesaid offence in the earlier aforesaid FIR itself.

5] Counsel has submitted that the prosecutrix had resident with the applicant in live-in-relationship for around 4-5 years and the abortions were carried out with the consent of both the parties concerned as

husband and wife and thus, to say that the prosecutrix was threatened by the applicant is again blatantly a false statement.

6] Counsel has also drawn the attention of this Court to the scores of photographs, audio clips and video clips, which were recorded by and between of the applicant and the prosecutrix. Counsel has also submitted that both of them were having an affair and were live-in-relationship. Thus, it is submitted that the custodial interrogation of the applicant does not necessary.

7] Counsel for the respondent/State, on the other hand, has opposed the prayer and it is submitted that looking to the conduct of the applicant no case for grant of anticipatory bail is made out.

8] Shri Solanki, Counsel appearing for the objector has vehemently opposed the prayer and it is submitted that earlier the applicant might be having an affair with the prosecutrix, but his subsequent conduct to send various video clips of him threatening to commit suicide and making false allegations against various persons of the prosecutrix's family and her in-laws and their family clearly goes to show the extent to which the applicant is ready to travel to harass the family members of the prosecutrix. So far as the earlier FIR lodged by the prosecutrix at Crime No.49 of 2022 dated 05.02.2022 is concerned, it is submitted that it was only an attempt on the part of the prosecutrix to discourage the applicant in his unwarranted advances as the applicant wanted to pressurize the prosecutrix to marry her and at that time she did not want to disclose that she was also sexually exploited by the applicant. Thus, it is submitted that the benefit of

prosecutrix's mental status cannot be given to the applicant and his custodial interrogation would be necessary to seize the video clips as alleged by the prosecutrix and thus, the application be liable to be rejected.

9] Heard counsel for the parties and perused the record.

10] On perusal of the record, this court finds that this is not a case where the rape is committed on the pretext of marriage, but a case where the prosecutrix is raped after the applicant spiked her cold drink and took advantage of her. However, case diary and the various documents filed by the applicant reveals that the prosecutrix and the applicant were having live-in-relationship for quite some time and during this time, the prosecutrix also got pregnant for more than a couple of times and got it terminated, allegedly under the pressure of the present applicant. It also appears that subsequently, the things got sore between them and to the disappointment of the applicant, the prosecutrix got engaged to some other person. The applicant, being a jilted lover, not being able to get around the prosecutrix, has resorted to blackmailing the prosecutrix and has even sent his video clips to the in-laws of the prosecutrix that he would commit suicide and for which they would also be held responsible together with the family of the prosecutrix. The applicant has sent the video clips with a view to make sure that the proposed marriage of the prosecutrix does not get materialized and as submitted by the counsel for the prosecutrix, it has already been cancelled. In the considered opinion of this court, such act of the applicant needs to be viewed seriously as how much stress

his acts must have caused to the prosecutrix, her family members as also other persons is not difficult to comprehend.

11] Taking note of the spurt of such offences in recent times arising out of live-in-relationship, this court is forced to observe that the bane of live-in-relationship is a by-product of Constitutional guarantee as provided under Art.21 of the Constitution, engulfing the ethos of Indian society, and promoting promiscuity and lascivious behavior, giving further rise to sexual offences. Those who wanted to exploit this freedom are quick to embrace it but are totally ignorant that it has its own limitations, and does not confer any right on any of the partners to such relationship. The applicant appears to have fallen into this trap and portraying himself as a victim, has assumed that once he has a relationship with the prosecutrix, he can also force himself upon her for all the time to come, having her various photographs and video clips etc.,. The earlier FIR at Crime No.49/2022 lodged by the prosecutrix clearly demonstrates that she had tired her best to avoid the applicant but he still persisted in his demands, leading to lodging of the present FIR.

12] In such facts and circumstances of the case, this court is of the considered opinion that the custodial interrogation of the applicant would be necessary. Resultantly, the application being devoid of merits is hereby dismissed.

**(SUBODH ABHYANKAR)**  
**JUDGE**