

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 335 OF 2015**

Vaibhav Pandharinath Mandlik	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Anil D. Joshi for the Applicant

Mr. Y. M. Nakhwa, A.P.P for the Respondent-State

PSI Mr. R. B. Gaikwad from Murbad Police Station is present

CORAM : REVATI MOHITE DERE, J.

TUESDAY, 24TH MARCH, 2015

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. I-24 of 2015 registered with the Murbad Police Station for the alleged offence punishable under Section 376 of the Indian Penal Code.

3. It is alleged by the complainant that she met the applicant in 2012, when she was studying in F.Y.B.Com. The applicant, at the relevant time, was aged 30 years and the complainant was about 20 years. It is alleged by the complainant that after a few days of their acquaintance, the applicant proposed to the complainant and assured the complainant that they would get married soon. Thereafter, in February, 2013, it is alleged that the applicant took the complainant to one temple and thereafter to a lodge and on the assurance that he would get married to her soon, had sexual relations with the complainant. Thereafter, on 6th May, 2013, the applicant is alleged to have taken the complainant to Titwala, District Thane, for Ganpati Darshan in his Accent car. Thereafter, it is alleged that the complainant and the applicant stayed with the applicant's friend and again on the pretext of the marriage, the applicant had physical relations with the complainant. It is alleged that whenever the complainant questioned the applicant or broached the topic of marriage, the applicant assured her that he would soon be getting married to her. Thereafter, on 17th January, 2014, the applicant is alleged to have taken the complainant to his residence at Murbad, Thane, showed her the wedding saree and gifted her a mobile phone. Later, as the mobile phone gifted by the complainant

was lost, on 6th May, 2014, i.e. on the complainant's birthday, the applicant took the complainant to a mobile shop and purchased a Micromax Company Mobile along with a Sim card, as a gift for the complainant, to keep in touch with the applicant. It is alleged that the applicant sent a photograph of the wedding saree and Mangalsutra on her mobile. On 26th January, 2015, while going in car to Murbad, the applicant is stated to have had physical relations with the complainant in the car. Thereafter, the applicant is stated to have taken her to the residence of one Ashwini Mhatre. On 30th January, according to the prosecutrix, when she was at Ashwini Mhatre's residence, she received a call from the applicant disclosing to her, that her father had lodged a missing complaint with the Murbad Police Station and that he had expressed suspicion on him. The prosecutrix is stated to have called her father and gone to the Police Station, where she learnt that the applicant was a married man with a five year old child. Hence, the prosecutrix lodged a complaint.

5. Learned Counsel for the applicant contended that since 2012, the applicant and the complainant were known to each other and that the complainant had gone with the applicant to several places. According to

the learned Counsel for the applicant, the complainant was aware that the applicant was married man with a child.

6. On the other hand, learned A.P.P opposed the bail application. He submitted that the applicant had established physical relations with the complainant, only on the assurance and under the pretext of false promise of marriage. He also contended that the applicant had suppressed the fact, that he was married man with a child, to the complainant.

7. Perused the FIR. It appears from the FIR that the applicant and the complainant were known to each other from 2012 and that the applicant and the complainant would frequently travel with each other. The applicant had gifted certain items to the complainant. Several sms's were exchanged between the two. It also appears from the FIR that the complainant had eloped with the applicant and that it is only after her father disclosed that the applicant was a married man with a child, that the present complaint came to be lodged. Whether or not, the applicant had suppressed the fact that he was a married man with a child, will be considered by the trial Court, after evidence is led. Considering the peculiar facts of the case,

custodial interrogation of the applicant is not required. Accordingly, the application is allowed. The applicant is directed to be released, in the event of his arrest, on the following terms and conditions:

ORDER

- (i) In the event of arrest, the applicant Vaibhav Pandharinath Mandlik be enlarged on bail in connection with C.R. No. I-24 of 2015 registered with Murbad Police Station, on furnishing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall report to the Murbad Police Station on every Saturday between 10:00 a.m. to 11:00 a.m. till the filing of the charge-sheet;
- (iii) The Applicant shall not tamper or attempt to influence the complainant or any person concerned with the case ;
- (iv) The applicant shall cooperate with the investigating agency.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.
8. It is made clear that the aforesaid observations are *prima facie*, for the purpose of deciding this application.
9. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.