

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

ANTICIPATORY BAIL APPLICATION NO. 827 OF 2020

Abhishek Satish Pawanikar ... Applicant

Versus

State of Maharashtra ... Respondent

Mr. Mohammad Shine K. for Applicant.

Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 11th DECEMBER, 2020

P. C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 1060 of 2020 dated 16th September, 2020 registered at Sakinaka Police Station, under Sections 376, 323 and 504 of IPC.

2. The FIR is lodged by the prosecutrix herself. She has stated that she was married in the past and has a son and a daughter from the marriage. She has been residing separately from her husband since 2010. In the year 2016, she got acquainted with the Applicant. He started residing in the same building. The Applicant

gave her a job offer of cooking meals for him. The prosecutrix started going to his house for cooking meals. In September, 2016, the Applicant allegedly told her that he was in love with her and he was willing to marry her. It is her case that by persistently telling her about his love, he established physical relations with her. It is her case that the Applicant started visiting her house. He used to reside with her in her house overnight and have sexual relations with her. In February, 2020, the Applicant got a proposal of marriage for another girl and he started avoiding the prosecutrix. Thereafter, the Applicant did not pick up her phone calls. The prosecutrix realized that she was cheated and, therefore, she lodged FIR.

3. Heard Mr. Mohammad Shine K., learned counsel for the Applicant and Ms. Pallavi Dabholkar, learned APP for the State.

4. The learned counsel for the Applicant invited my attention to a marriage certificate, attached to this application at Exhibit 'D' at page 27. This marriage certificate shows that the prosecutrix has got married with another man on 15th May, 2019. This marriage certificate is issued by the Buddhist Society of India on 20th November, 2020 bearing Certificate No.2483. The learned counsel for

the Applicant, therefore, submitted that the allegations in the FIR are not true. The prosecutrix had got married during the period of alleged offence between September, 2016 to February, 2020. There is no mention about such marriage in the FIR. She has suppressed this fact. Moreover, it is highly improbable that the Applicant indulged in sexual relations with the Informant when she has grown up children of 17 years and 15 years, staying in the same house.

5. The learned APP submitted that the investigating agency has no information about the prosecutrix's marriage, reflected in the aforesaid certificate annexed at Exhibit 'D'. She submitted that the FIR itself shows that the prosecutrix was misled by the Applicant and, he did not marry her.

6. I have considered these submissions made on behalf of the respective parties. On the last occasion, at the request of the learned APP, the matter was adjourned for today. As of today, the marriage certificate attached to this application is not disputed by the investigating agency. Therefore, for this reason, it is not possible to disbelieve the Applicant's claim that the prosecutrix had got married in May, 2019 during the alleged period of offence, which is a subject

matter of the FIR. I have considered the submissions that it is highly improbable that the Applicant stayed in her house during night time, and indulged in sexual relations with the Informant when she has grown up children, staying in the same house.

7. In this view of the matter, the Applicant deserves proection of anticipatory bail. It is made clear that if the certificate referred to hereinabove, is found to be fraudulently obtained by the Applicant, the State is at liberty to move for cancellation of anticipatory bail granted by this Court.

8. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. No.1060 of 2020 registered at Sakinaka Police Station, the Applicant be released on bail on his executing PR. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend concerned Police Station as and when called and shall cooperate with the investigating

agency.

- (iv) The application is disposed of in the aforesaid terms.

(SARANG V. KOTWAL, J.)