

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 595 OF 2021
WITH
CRIMINAL APPLICATION NO. 1317 OF 2021

Akash s/o. Murlidhar Salve .. Applicant
Age. 24 years, Occ. Education,
R/o. H.No.76, Vedant Nagar,
Itkheda, Paithan Road,
Taluka and Dist. Aurangabad.

Versus

The State of Maharashtra .. Respondents

Mr.Nilesh S. Ghanekar, Advocate for the applicant.
Mr.V.S. Badakh, APP for respondent/State.
Mr.C.B. Thombre, Advocate for the intervenor.

CORAM : SANDEEP K. SHINDE, J.
DATED : 05.07.2021

PC :-

01. Heard learned counsel for the applicant, learned APP for the State and learned Counsel Mr. Thombre for the complainant [intervenor].

02. The applicant is a law student. He apprehends arrest in connection with Crime No. 0166 of 2021 registered with MIDC Cidco Police Station, Aurangabad under sections 376(2)(n)(f)(k), 417, 323, 504, 506 read with 34 of the Indian Penal Code. Thus applied for pre-arrest bail.

03. The complainant is 24 year old lady. She runs a beauty parlour. Applicant and the complainant exchanged engagement rings in October, 2020, where-after the complainant submitted herself to the physical desire of the applicant for more than one time. She was conceived and featus was aborted. The complainant alleges that she was forced to succumb to the physical desire of the applicant on the pretext of, false promise of marriage. It appears after engagement, temperament of the applicant and the complainant could not match. It caused disagreements on several issues. Consequently, applicant had sent notice through his lawyer to the complainant on 7th April, 2021. Wherein, he recorded threats, extended by complainant. The notice has not been replied by her. However, on 20th April, 2021, she lodged FIR.

04. Learned Counsel for the intervenor (complainant) submitted that on 7th April, 2021, applicant deliberately dashed vehicle of the complainant across a street. In the result, the complainant sustained injuries and was treated in the hospital. It may be stated that in support of this submission the complainant has not placed any evidence before me. However, assuming the incident had taken place on 7th April, 2021, question arises as to why the crime in question was lodged on 20th April, 2021.

The evidence on record suggests crime in question was lodged only after the applicant had issued a notice to her as stated above. Learned Counsel appearing for the complainant would submit that since the complainant was admitted in the hospital, she could not lodge the complaint soon after 7th April, 2021. There is fallacy in the argument in the sense the alleged incident relating to false promise of marriage had occurred much prior to 7th April, 2021. Therefore, it is to be observed, the crime in question was registered only after notice issued by the applicant was received by her. Therefore, crime in question was registered as a counter to the notice issued by the applicant.

05. Prima facie, facts of the case suggest, it was a breach of promise to marriage. Be that as it may, whether "promise to marry" was false or "breach of promise to marry", a fact is to be answered after appreciating the evidence lead by the prosecution. Though, the prosecution has relied on the statement of victim recorded under section 164 of Cr.P.C., in my view, the narration in the statement will not improve the case of the prosecution to deny pre-arrest protection to the applicant.

06. In consideration of the facts of the case, a

case is made out for granting anticipatory bail to the applicant. Hence, the order :-

07. In the event of arrest of the applicant, the applicant be released on bail on executing bond of Rs.20,000/- [Rupees Twenty Thousand] with one or more sureties in the like amount. The applicant shall not influence the prosecution witnesses in any manner.

08. The anticipatory bail application is allowed and disposed of. Pending application disposed of.

[SANDEEP K. SHINDE,J.]