

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

ANTICIPATORY BAIL APPLICATION NO. 772 OF 2020

Sachin Shivaji Patil Applicant
Versus
The State of Maharashtra Respondent

**WITH
INTERIM APPLICATION NO. 1470 OF 2020**

Sujata Manik Salunkhe Intervenor

In the matter between:

Sachin Shivaji Patil Applicant
Versus
The State of Maharashtra Respondent

Mr. A. P. Mundargi, Sr. Advocate i/b. Kuldeep U. Nikam for Applicant.

Mr. Umesh Pawar for Intervenor.

Mrs. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 04th FEBRUARY, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.291 of 2020 registered at Ashta Police Station, Dist. Sangli, on 02/09/2020, under sections 376(2)(n) and 506 of the

Indian Penal Code (for short 'IPC').

2. The First Information Report (for short 'F.I.R.') is lodged by the prosecutrix herself. She has stated that, she was a married lady with two daughters. She was residing with her husband, daughters and mother in law. She got married in the year 2009. There used to be frequent quarrels between herself and her husband. In September, 2019, the applicant who was a distant relative used to visit her parental house at Walva. He developed friendship and then love affair with the prosecutrix. It is her case that the applicant told her to leave her family and that he would lookafter her and that he would marry her.

3. On 25/05/2020 the informant went to Walva. There the applicant called her telephonically and told her to reach Tasgaon. She went there. The applicant asked her to accompany him. Both of them took a pass and went to Pune. The applicant exchanged garland with the informant in a temple and thus, according to the informant they got married. Thereafter they resided together for three months as husband and wife. During that period they had physical relations on multiple occasions. It is

her case that the applicant was telling her that, he would help her in getting divorce from her husband and then he would marry her. He also induced her into undergoing an operation for family planning. When she was admitted in the hospital in August, 2020, police visited the hospital. They were investigating the complaint lodged by her father about her missing. After that the applicant left her to her parent's place and then did not contact her. On this basis, the F.I.R. is lodged.

4. Heard Shri. Mundargi, learned Senior counsel for the applicant, Shri. Umesh Pawar, learned counsel for the Intervenor and Smt. Lohokare, learned APP for the State.

5. Learned Senior counsel for the applicant submitted that, bare reading of the F.I.R. shows that, it was a consensual relationship. The informant was fully aware of the consequences of her acts. She was an adult and married lady.

6. Learned counsel for the Intervenor stated that the informant accompanied the applicant only on the basis of false promise given by the applicant and since his intention was not honorable right from the inception, the consent is not a proper

consent and, therefore, the offence is made out.

7. Learned APP relied on the allegations made in the F.I.R.

8. I have considered these submissions. Very clearly, it is a case of consensual relationship. The informant was a married lady with two daughters, in spite of that, she developed love affair with the applicant. She willingly started residing with the applicant. On one occasion they exchanged garlands in token of getting married in a temple. This all shows that the physical relationship was with full consent of the informant. Therefore, there is no substance in the submission of learned counsel for the informant that the applicant's intention was not honorable right from the inception. The informant was very well aware of the consequences of her acts. In this view of the matter, it is rather difficult to believe that offence of rape, as alleged, is committed by the applicant. The custodial interrogation of the applicant is not necessary. He can be protected by an order of anticipatory bail. The observations made in this order are restricted to this order.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.291 of 2020 registered at Ashta Police Station, Dist. Sangli, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The applicant shall attend the concerned police station, as and when called and shall co-operate with the investigation.
- (iii) Application stands disposed of accordingly.
- (iv) In view of disposal of ABA No.772 of 2020, the Interim Application No.1470 of 2020 also stands disposed of as I have already heard learned counsel for the Intervenor.

(SARANG V. KOTWAL, J.)