

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.562 OF 2021**

Santosh Laxman Jangam .. Applicant

Vs.

The State of Maharashtra .. Respondent

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Mr. Gaurav Parkar for the Applicant.

Ms. A.A. Takalkar, A.P.P. for the State.

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CORAM : SMT. BHARATI DANGRE, J.

DATED : 09TH JULY, 2021.

P.C:-

1. The Applicant is charged with offences punishable under Sections 376(2)(n), 417, 420 read with Section 34 of the IPC and Sections 25(1)(c) of the Arms Act on a complaint filed by the prosecutrix, who is estranged from her husband and has a child of 11 years.

2. On 26/06/2020, she approached the Khopoli Police Station

and alleged that she is staying separately from her husband since 2012 and was running a beauty parlor at Satara but had shut the said activity since May, 2019. She referred to an incident dated 22/03/2019 when, for the first time, she met the Applicant when she had visited the temple for offering prayers. He offered a lift to her since he was also going to Satara. According to the prosecutrix, she narrated her personal details to the Applicant and the Applicant asked whether she was married. He also disclosed to her that he is not married. He dropped her at home and they exchanged the telephone numbers. They used to converse with each other on the mobile and, it is alleged that the Applicant assured her that he will perform marriage with her. He had also shown a revolver, which was kept by him in his car.

3. The Complainant alleges that one day, he asked her to accompany him to Alibag and, accordingly, she along with her son, stayed with him in a resort at Alibag, where he convinced her that she should come and stay with him in Khopoli. On this assurance being given, she shifted to Khopoli and he rented a room by paying the deposit. She also joined his company along with his son and they established physical relationship on multiple occasions. In February, 2020, she conceived, out of the said relationship and, at this point, the relationship took a turn and the Applicant is alleged to have been pestered by the said pregnancy. It is the allegation of the prosecutrix that the Applicant started detaching himself from their relationship and

she underwent a Sonography on account of her pregnancy. The allegation in the complaint is that she had parted with huge amounts in cash and gold and silver jewelries and handed them over to the Applicant. At that time when the Complainant became aware that the Applicant is already married and, that is the reason, why he is avoiding to cohabit with her, she lodged a complaint with the police on 26/06/2020. The charge-sheet includes the papers of sonography test as well as the financial transactions of the Complainant.

4. The Complainant, at the time when the incident took place, was major being aged 30 years and the Applicant is aged 51 years. The two persons being major in age, came close together, established relationships, including the physical relationship, and when it was revealed to the Complainant that the Applicant was already married, she lodged the complaint. The allegation is that there is a promise to marry and, therefore, Section 417 is also invoked. This is a typical case where the two matured persons begin a relationship, carry it forward for sometime, but subsequently realize that it cannot go further. It may be true that the Applicant has not disclosed that he was married, but that itself cannot be a ground to deny his release, when *prima facie* the physical relationship appears consensual. Whatever is the charge levelled against him that would be proved at the time of trial but on the investigation being complete, he cannot be further incarcerated and entitled to be released on bail.

ORDER

(a) The Applicant – **Santosh Laxman Jangam**, shall be released on bail in C.R. No.89 of 2020 registered with Khopoli Police Station, District Raigad on executing P.R. bond to the extent of Rs.25,000/- and furnishing one or two sureties of the like amount.

(b) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case and shall not tamper with prosecution evidence.

(c) The Applicant shall not, in any manner, establish contact with the prosecutrix.

5. The Application is allowed in the aforestated terms.

6. All parties are directed to act on the downloaded copy of the order supplied by the Advocate under his seal and signature.

[SMT. BHARATI DANGRE, J.]