

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

ANTICIPATORY BAIL APPLICATION NO.362 OF 2021

Ajay Daji Bansode

.. Applicant

Vs.

The State Of Maharashtra

.. Respondent

Mr. Manoj Mohite, Sr. Advocate, i/b Mr. Rajaram V. Bansode,
Advocate for Applicant.

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

Mr. Vijay Gole (API) Worli Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 2nd JULY, 2021

PC.

1. The applicant is apprehending arrest in C.R. No.9 of 2021 registered with Worli Police Station for the offence punishable under Sections 376(N), 377, 417 of Indian Penal Code (for short "IPC").

2. The case of the complainant is that she is a Police Constable. Her husband has expired in 2013. She decided to perform second marriage. She registered her name in Marriage Sanstha at Pune. She received call from Marriage Sanstha and gave mobile number of one person. The applicant had called from the said number. He was Engineer in PWD Department, Mumbai. He represented that he intended to perform marriage

with informant and he would obtain divorce from the earlier marriage. In January 2020, the accused called the informant and they spoke on mobile phone. On 16.01.2020 the informant visited the address of accused. At that time except them nobody was present in room. There was physical relationship between them. Accused promised her to perform marriage. The complainant returned to Pune. Both of them were talking each other on phone. Accused told the complainant that his parents are coming to Worli. On 27.02.2020 the informant went to Worli to meet the accused. They had physical relationship. Thereafter, they continued to talk each other on phone. The accused then forwarded photo of one Rupali on WhatsApp and told the complainant that there is proposal of marriage from her. Thereafter, on 01.12.2020 the accused called the informant. They visited lodge. There was physical relationship between them. On 22.12.2020 the accused again called her and they went to Guest House at Panvel. She was subjected to unnatural physical relation. The complainant was also told that he is not yet divorced and proceedings are pending in the Court.

3. Mr. Mohite, Senior Advocate for the applicant submitted that assuming that the allegations to be true, the relationship was of consensual nature. The applicant is working as Engineer in PWD Department. Custodial interrogation of the applicant is not necessary. In the profile of the applicant at Marriage Bureau his marital status is shown as "Awaiting Divorce". Thus, it was made clear that he had not obtained divorce from his first wife. The complainant has alleged that they had physical relations on several occasions at different places. The facts that he had proposal of Rupali for marriage through Marriage Bureau was informed to the complainant. The said fact is reflected in FIR. WhatsApp messages exchanged by both show that the complainant has threatened the applicant that he should perform marriage with her. The applicant has replied that after the divorce he would perform marriage. The complainant started threatening the applicant that complaint would be lodged against him and that he would be implicated along with his relatives in the case.

4. Learned APP submitted that the victim was subjected to physical relationship under the false promise of marriage. The applicant was not divorcee. Applicant established physical relations with the complainant. He tried to impress upon the complainant that he is divorcee and would perform marriage with her. After the registration of FIR, the victim had committed suicide and ADR was registered. However, no offence is registered under Section 306 of IPC against any person.

5. During the course of investigation, statement of Rupali has been recorded. She has stated that she got acquainted with the applicant through marriage bureau. She was aware that the applicant was not at divorcee and it was not possible to marry with him. Since the applicant had promised to marry her, she has visited his house, however, since divorce was not granted to him, she did not perform marriage with him.

6. On perusal of the FIR, it is apparent that there was physical relations between the victim and the applicant on 16.01.2020, 27.02.2020, 01.12.2020 and 22.01.2020. The applicant has contended that in the marriage bureau his marital

status indicates that divorce is awaited. The relationship is apparently was of consensual nature. Custodial interrogation of the applicant is not necessary.

ORDER

- (i) Anticipatory Bail Application No.362 of 2021 is allowed;
- (ii) In the event of arrest of the applicant in connection with in C.R. No.9 of 2021 registered with Worli Police Station, Mumbai, the applicant be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the investigating officer on 12th, 13th & 14th July 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for.
- (iv) The applicant shall handover the cell phone to the Investigating Officer for the purpose of Investigation.
- (v) The applicant shall not tamper with the evidence.
- (vi) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)