

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

ANTICIPATORY BAIL APPLICATION NO. 1503 OF 2021

Kishan Ramnath Vanshi Applicant
Versus
The State of Maharashtra Respondent

Mr. Siddhesh S. Borkar for Applicant.
Smt. Anamika Malhotra, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 642 of 2021 registered at Sakinaka Police Station, Mumbai, on 09/06/2021, under sections 376 and 417 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Siddhesh Borkar, learned counsel for the applicant and Smt. Anamika Malhotra, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by the prosecutrix herself on 09/06/2021. She has stated that, in January, 2020 there was a marriage proposal from the applicant's side through a common mediator. In February, 2020

marriage was fixed between the applicant and the informant. Initial ceremonies had also taken place. It was decided that the marriage would take place in November, 2020. However, in March, 2020 lockdown was imposed and, therefore, it was decided that, marriage would take place in the year 2021. In the meantime, the informant was regularly in touch with the applicant's family. The F.I.R. mentions that, on 02/03/2021 the applicant called the informant to meet him at Borivali. In the first week of March, applicant visited informant's house. At that time, no one else was in the house and therefore, applicant took opportunity and had physical relations with the informant, though, she was not agreeable for the same. Thereafter, on 2 to 3 occasions the applicant took the informant to a hotel at Gorai beach. There again they had their physical relations. Informant's case is that, thereafter the applicant refused to marry her and thus, she lodged this F.I.R.

4. Learned counsel for the applicant submitted that, marriage was fixed in February, 2020 which was to take place in November, 2020. However, because of lockdown, marriage could

not take place. In the month of December, 2020 the marriage was called off because of family pressure, as applicant's sister was still unmarried. He submitted that, therefore, the informant was aware that the marriage was not possible and yet physical relations were kept by both of them in the month of March, 2021. He submitted that the informant was very well aware of the situation and if there was any physical relation, it was fully with her consent. The informant could not have entertained any misconception of fact in this particular case.

5. Learned APP opposed this application based on the narration in the F.I.R. She also relied on the investigation papers which contain statements of relatives of the informant.

6. I have considered these submissions. The statement of one of the relatives of the informant shows that, in December, 2020 itself the marriage was called off. To that extent, the applicant's case appears to be true. Therefore, the informant was fully aware that there were difficulties in their plan to get married. In spite of that, she consented to have physical relations. They had their physical relations on few occasions. Therefore, there is

considerable force in the submission of learned counsel for the applicant that relation was consensual. However, at this stage, it would not be appropriate to comment anything further because the investigation is going on and this order should not affect the investigation and possible trial in any manner. However, considering the background and above discussion, the applicant has sufficiently made out a case for protection of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 642 of 2021 registered at Sakinaka Police Station, Mumbai, the applicant is directed to be released on bail on his furnishing P. R. 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 cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)