

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

ANTICIPATORY BAIL APPLICATION NO. 1683 OF 2021

Mayuresh Mahesh Sherlekar

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Rajendra Shirodkar, Senior Advocate, i/b Nihar S. Ghag, for the applicant.

Smt. Anamika Malhotra, APP for the State/Respondent.

**CORAM: SARANG V. KOTWAL, J.
DATE : 23rd JULY, 2021**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 304 of 2021 registered at Bhoiwada Police Station, Mumbai, on 16/05/2021 under sections 376, 376(2)(n) of the Indian Penal Code.

2. Heard Mr. Rajendra Shirodkar, learned counsel for the applicant and Smt. Anamika Malhotra, learned APP for the State.

3. The FIR is lodged by the prosecutrix herself. She was 30 years of age at the time of lodging of the FIR. She has stated that she came in contact with the applicant in the year 2013 as they were studying in the same class in the same college. Their friendship turned into a love affair. The informant used to visit the house of the applicant. Her family was aware of their love affair. In 2014, on one occasion when the applicant was alone in the house, he called the informant to his house and suggested to have physical relations. She showed her disinclination. But the applicant told her that since he was to get married with her, there was no reason as to why they should not have physical relations. The informant got swayed away with his constant suggestions and they started their physical relations. In December 2017, the applicant's mother asked for the horoscope of the informant. Her horoscope was not favourable for marriage. However, the applicant told her that he will take remedial steps by performing pooja for their marriage. The FIR mentions that the applicant used to

take the informant to his friend's house and they had their regular physical relations.

4. The applicant met the informant's father and discussed about their marriage. The informant's father told him to get his parents for discussion. On 06/08/2019, both families met and their marriage was fixed. The applicant's family again asked for her horoscope. For many days there was no response from the applicant regarding their marriage. Even thereafter, the informant and the applicant kept on meeting each other and they still had their physical relations. After March 2020, when lock down was imposed their meetings become less frequent and there was no further progress in taking steps in getting married. On one occasion, the informant saw some photos of another girl in the applicant's mobile phone. She asked the applicant about those photos.

5. In February 2021, a meeting was arranged to

fix their marriage. In April 2021, again the applicant sought some more time. Finally she realised that the applicant did not want to marry her and therefore this FIR is lodged.

6. Learned Counsel for the applicant submitted that bare reading of the FIR shows that it was a consensual relationship. It was not case of false promise given by the applicant to the informant. Therefore no offence is made out.

7. Learned APP opposed this application on basis of the allegations made in the FIR.

8. I have considered these submissions. The FIR itself shows that the informant was knowing the applicant since 2013 and since many years they regularly had physical relations. Their love affair was known to both the families. It is not the case that the applicant had not taken any steps to get married. The applicant had met

the informant's father in that connection. Both the families had discussed marriage. Therefore, at this stage, it cannot be observed that the applicant never had any intention to marry the informant and that he had made false promise to the informant for keeping physical relations. In the facts of this case, there is scope to believe that it was a consensual relationship. Therefore, applicant's custodial interrogation is not necessary. These observations are restricted to passing of this order.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R. No. 304 of 2021 registered with Bhoiwada Police Station, Mumbai, 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) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)