

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

ANTICIPATORY BAIL APPLICATION NO. 1732 OF 2021

Shailesh Shubh Aavhad ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Pravada Raut, Advocate for the Applicant.

Mr. S. H. Yadav, APP for the Respondent – State.

Mr. Maladkar V. R. (P.S.I.) Dahisar Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 16th SEPTEMBER, 2021

PER COURT:

1. The Applicant is seeking anticipatory bail in connection with C.R. No. 182 of 2021 registered with Dahisar Police Station, on 05/04/2021, for offences under Sections 376(2)(n), 377 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, on 05/04/2021. She has stated that, she got acquainted with the applicant in June 2019. Their acquaintance turned into friendship and then in love affair. They started visiting various places. The informant was from Ratnagiri.

In July 2020 she had gone to her native place. The applicant went there and stayed in a hotel. There he proposed to her for marriage. Both of them came back to Mumbai. On 04/10/2020 the applicant called the informant to his place. He promised to marry her. Based on that promise they had physical relation. The applicant used to invite her to stay with him every other day and on such occasion there used to be physical relations. Finally the informant asked him about marriage before having any physical relations. He again promised to get married. There are allegations of unnatural sex, as well. Subsequently, he started avoiding the subject of marriage. On 01/03/2021 the applicant's mother visited him, therefore, the informant went to reside with her friend. However, the applicant did not disclose about her affair to applicants mother. On 10/03/2021 when the informant questioned applicant telephonically, he refused to get married and suggested that they should remain as friends. On 19/03/2021 the applicant again called her to his place and had physical relations. He refused to marry and threatened her.

3. Learned counsel for the applicant submitted that the F.I.R. itself shows that, it was purely a consensual relationship. The couple was practically living together for a long time, therefore, it

could not be a case that the informant had agreed to have physical relations on some promise of marriage. Learned counsel for the applicant relied on the Whats-App chats between them dated 12/03/2021. The Whats-App chats show that the informant herself was making a suggestion to the applicant which is contrary to her case. These Whats-App chats are after 10/03/2021 when the applicant had allegedly refused to marry her.

4. Learned APP submitted that the complainant has alleged that under the false promise of marriage he induced her to physical relationship. She was also subjected to unnatural sexual relationship. The offence is of serious nature. Specific allegations are made against the applicant showing his involvement in the offence.

5. The specific date of incidents is not reflected in the FIR. The applicant was granted interim protection by order dated 28th July, 2021 with direction to attend the concerned Police Station as and when called and cooperate with the investigation. Learned counsel for the applicant submitted that the applicant has appeared before the Investigating Officer. He has handed over the cell phone to the Investigating Officer for the purpose of investigation.

6. For the reasons stated herein above interim order

granted by this Court can be confirmed. The relationship is apparently of consensual nature.

7. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No. 1732 of 2021 is allowed;
- (ii) Interim order dated 28th July, 2021 is confirmed.
- (iii) In the event of arrest of the applicant in connection with C.R. No. 182 of 2021 registered with Dahisar Police Station, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.30,000/- with one or more sureties in the like amount;
- (iv) The applicant shall attend the investigating officer as and when called for till filing of charge-sheet.
- (v) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)