

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

ANTICIPATORY BAIL APPLICATION NO. 1771 OF 2021

Rizwan Abrar Khan	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Vishal D. Khetre for Applicant.
Smt. M. R. Tidke, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 29th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.355 of 2021 registered at Nayanagar Police Station on 17/06/2021, under section 376 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Vishal Khetre, learned counsel for the applicant and Smt. Tidke, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by the prosecutrix herself. She has stated that, she was a married lady and had two children. She was earning her livelihood

by selling small snacks. She had got married with her husband in the year 2008, but since 2014 she was staying separately. In 2018, she sought help from a social activist. In her office, she got acquainted with the present applicant. The F.I.R. goes on to mention as to how their relationship developed. Since 2018 they had their regular physical relations. She discussed this with the aforementioned social activist, but she also did not take any steps and told the informant that, she would get the informant married with the applicant. The applicant himself had promised the informant that he would marry her. Their physical relations continued. The informant was taken to various lodges and hotels. They had their physical relations at those places, as well as, in her own house. The informant asked the applicant repeatedly about their marriage, but he always avoided that topic. Finally the informant lodged her F.I.R.

4. Learned counsel for the applicant submitted that, it was purely a consensual relationship and, therefore, offence punishable under section 376 of IPC is not made out. Custodial interrogation of the applicant is not necessary.

5. Learned APP opposed this application based on the

F.I.R., as well as, on the statement given by the first informant under section 164 of Cr.p.c.

6. I have considered these submissions and I have perused the investigation papers. The statement of the informant under section 164 of Cr.p.c. was recorded on 07/07/2021. In that statement she had added some more allegations than those of mentioned in the F.I.R. She has referred to some video which was allegedly seen by many others. It is alleged that the applicant's wife had forwarded that video to the informant's mobile phone. There are allegations against another lady who was indulging in prostitution and was having her own parlor. Thus, there are certain improvements in that statement. Those allegations are not made at the first instance in the F.I.R.

7. I have perused the investigation papers. Even after 07/07/2021, there is no statement of any of the witness showing that the aforementioned video was circulated or any witness had seen that video. There is a statement of the informant's husband. He has stated that, since December 2019 he got suspicious about the informant's affair with the applicant. The informant herself had

given her supplementary statement on 30/06/2021 wherein she had expressed suspicion that the applicant would make same video viral. However, there is no reference to the video which was allegedly circulated.

8. Thus, the informant has made various improvements from her original F.I.R. The F.I.R. itself shows that, it was purely a consensual relationship. Therefore, in the background of the facts of this case, custodial interrogation of the applicant is not necessary. He can be protected by an order of anticipatory bail. However, he is directed not to harass the informant in any manner.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.355 of 2021 registered at Nayanagar Police Station, 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) The applicant shall not make any attempt to contact the applicant in any manner and shall not cause any harassment to her.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)