

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

ANTICIPATORY BAIL APPLICATION NO. 2310 OF 2021

Krishnath Nagnath Puri Applicant
Versus
The State of Maharashtra Respondent

Mr. Sachin Pawar for Applicant.
Mr. Y. M. Nakhwa, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 27th SEPTEMBER, 2021**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 314 of 2021 registered at Chikhali Police Station, Pune, on 03/07/2021, under sections 376, 417 and 323 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Sachin Pawar, learned counsel for the applicant and Shri. Nakhwa, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by the prosecutrix herself on 03/07/2021. She has stated that, in 2014 she was working at a food-joint as Cashier. The applicant was also working at the same place. Their acquaintance

turned into friendship and then into a love affair. They used to meet each other at various places in Pune and even outside Pune. They became very close. It is her case in the F.I.R. that, the applicant promised that he would marry her. He used to take her to his room. He was sharing that room with his friend, but whenever his friend was not in the room, he used to keep physical relations with the prosecutrix. Every time he used to tell her that, he was going to marry her. The allegations in the F.I.R. are that, since March 2015 till 24/06/2021 they had physical relations. The informant's case is that, she consented because he had promised to marry her. She had added in the F.I.R. that the applicant kept his physical relations against her wish. In February 2021, the applicant started getting suspicious about her close friendship with her colleagues and, therefore, he started harassing her. On this basis the F.I.R. is lodged.

4. Learned counsel for the applicant submitted that, bare reading of the F.I.R. shows that the applicant and the informant were in consensual physical relationship. There was no force involved and it is impossible that, she would have entertained

misconception of fact for six years that the applicant would marry her. He submitted that, in this background, no offence is made out against the applicant and his custody is not justified.

5. Learned APP opposed this application. He produced investigation papers before me. The investigation papers contained supplementary statement of the first informant which is recorded on 20/09/2021. In that supplementary statement, she has added that, she became pregnant because of her relationship with the applicant in the year 2015. She had mentioned in the supplementary statement that the applicant took her to Doctor on 24/09/2015. The doctor gave her treatment causing abortion. That time, the applicant had represented there that, he was her husband. In 2016 again she became pregnant. Again he gave her some medicines causing abortion. In 2019 also when she was taken to another doctor for checkup, that time also the applicant had given his name as her husband.

6. Shri. Nakhwa also produced statement of the informant which was recorded under section 164 of Cr.p.c. That statement was recorded on 22/09/2021. In that statement, she has

added many other things. She has stated that, in 2018, 2019 and 2020 she had helped the applicant financially. She had taken loan for that purpose and had given that amount to him. The first informant has elaborated regarding his suspicion which he entertained regarding her colleagues. This statement further mentions that, in February 2021, the applicant approached her parents and discussed about their marriage. The marriage was fixed in July 2021. Before that, there was some incident wherein the applicant had beaten her and had abused her. It is her case that on 19/06/2021 and 24/06/2021 he had physical relations with her and at that time he had beaten her. After that he left for his hometown. She has mentioned in that statement that, on 30/06/2021 the applicant refused to marry her and thereafter she had lodged this F.I.R.

7. I have considered these submissions and these statements. As can be seen, the informant has added various allegations in her subsequent statements. The F.I.R. itself strongly indicates that, it was consensual relationship. It is difficult to believe that the informant was under misconception of fact for a

long period of 6 years during which, she had become pregnant on two occasions and had undergone abortion on both occasions. She has not complained about this fact to anybody.

8. Shri. Nakhwa submitted that, subsequently section 313 of IPC is added; but from her narration, it was clear that the abortion was with her consent. She had gone to the Doctor. The applicant had described himself as husband of the informant. Therefore, even ingredients of section 313 of IPC are not satisfied.

9. The informant's statement recorded under section 164 of Cr.p.c. gives more facts. In that statement, she has stated that the applicant had approached her parents and after discussion their marriage was fixed. This shows that the applicant's promise was not empty and he really intended to marry her. It is another matter that subsequently because of some incident or suspicion the marriage could not take place. Considering this background, there is force in the submission of learned counsel for the applicant that, it was a consensual physical relationship. In this background, custodial interrogation of the applicant is not necessary. It is made clear that, all these observations are made only for the purpose of

deciding this anticipatory bail application. The trial court shall not be influenced by any of these observations while deciding the trial.

10. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 314 of 2021 registered at Chikhali Police Station, Pune, 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) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)