

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

925 BAIL APPLICATION NO.1690 OF 2021

**SANDEEP PRAKASH PAWAR
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Bharat N. Gadegaonkar, Advocate for the applicant
Shri. G. O. Wattamwar, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 21st January, 2022**

PER COURT :-

1. Heard.
2. Informant is the sister-in-law of the applicant (applicant's wife's cousin). The applicant and his wife got married in the month of April-May, 2019. Thereafter, applicant established physical relations with the informant. Informant was 20 years of age at that time. Informant remained pregnant from the applicant.
3. It is the case of the prosecution that informant submitted to the lust of the applicant as applicant had promised her to marry her. When she remained pregnant,

applicant said to her that she should terminate her pregnancy which she declined. In due course of time she delivered a baby girl. Applicant started saying that he would not marry her as she had given birth to a baby girl. Therefore, in a meeting, Panch Committee decided that applicant should start living with one Sandip Chavan and she should not mention the name of the applicant as the person who sexually assaulted her. Thereafter, she started living with one Sandip Chavan. Since applicant refused to marry her and maintain her informant lodged this report on the basis of which offence under Sections 376, 506, 120-B, 107 of the Indian Penal Code, under Sections 3(XII), 4, 5, 6, 7 of Maharashtra Protection of People From Social boycott Act, 2016 vide Crime No. 304 of 2021 registered with Kinwat Police Station, Dist. Nanded came to be lodged.

3. Heard Shri. Gadegaonkar, learned counsel for the applicant and learned APP Shri. Wattamwar for the State.

4. Shri. Gadegaonkar, learned counsel submits that

informant was major at the time of the incident. The reason given by the informant for staying with Sandip Chavan is incomprehensible. He submits that informant was very well aware that applicant being a married man cannot marry the informant and still she submitted herself for his overtures. Applicant is, therefore, entitled to be released on bail.

5. Learned AP submits that the applicant out of lust established sexual relations with the informant. Her consent was obtained under misconception of fact. Applicant had promised to marry her and on that count she submitted herself for his sexual desire. Because of the pressure of the Panch, she started living with Sandip Chavan.

6. So far as informant is concerned, undisputedly her age at the time of the alleged incident was 20 years. In her statement under Section 164 of the Code of Criminal Procedure she has stated that she had voluntary sexual intercourse with the applicant. She further states that applicant established physical relations with her on the false

promise of marriage. However, upon birth of a baby girl, applicant resiled from his promise. Informant being the sister of the wife of the applicant, was very much aware that applicant is a married man. Therefore, she was also perfectly aware that marriage in such an eventuality is not likely to happen. Even then she permitted the applicant to have physical relations with her. Having regard to this *prima facie* case is not made out. Applicant has no criminal antecedents. He has permanent place of residence. In this view of the matter, I am inclined to release the applicant on bail. Hence the order

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one solvent surety in the like amount in connection with CR No. 304 of 2021 under Sections 376, 506, 120-B, 107 of the Indian Penal Code, under Sections 3(XII), 4, 5, 6, 7 of Maharashtra Protection of People From Social Boycott Act registered with Kinwat Police Station, Dist. Nanded, on

condition that he shall not tamper the prosecution evidence.

3. Application is disposed of.

4. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, J.]

ssp