

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

ANTICIPATORY BAIL APPLICATION NO. 200 OF 2022

Sagar Harendra Jaiswal	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Yashpal Thakur i/b. Dinesh Kumar Jain for Applicant.
Ms. Rutuja Ambekar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 27th JANUARY, 2022
(through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 832 of 2021 registered at V. P. Marg Police Station, on 14/12/2021, under sections 376, 313 and 417 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Yashpal Thakur, learned counsel for the applicant and Ms. Rutuja Ambekar, 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 knowing the applicant since their childhood. In 2012 they became

close. They developed love relationship. It is her case that, in the year 2012 itself the applicant proposed to her for marriage. In that background, they had their regular physical relations at various places including applicant's house. It is her case that the applicant used to promise marriage.

4. In October 2018, the informant had become pregnant. The applicant convinced her that they were not in a position to look after the child and, therefore, gave her pills for abortion which did cause abortion. Even after that the informant kept on asking the applicant about their marriage, but he used to avoid the subject. Their physical relations still continued. She again became pregnant in December 2019. Again she was given pills by the applicant and again there was abortion. Even thereafter the applicant sought further time for getting married. During that period also there were physical relations between them. Ultimately, the applicant did not marry the informant and, therefore, she lodged this F.I.R.

5. Learned counsel for the applicant submitted that, bare reading of the F.I.R. shows that it was a purely consensual

relationship. There was no misconception of fact. The informant was an equal participant in the entire affair. Considering the long period of their relationship and two instances of abortion, it cannot be said that the informant was not aware of the fact that she was not getting married with the applicant. He, therefore, submitted that no offence is made out and the applicant's custodial interrogation is not necessary.

6. Learned APP opposed this application. She submitted that, there were two instances of abortion. In spite of that the applicant did not marry her. Therefore, his intentions were never honest. She submitted that the applicant's custody is necessary for medical examination and other investigation.

7. I have considered these submissions. The F.I.R. is clear enough. The relationship was going on from the year 2012. It is a long period. During all this time, if the applicant had not taken any steps for getting married, obviously, the informant would have known the intention, but she willingly consented for physical relationship. There were two instances when she had become pregnant and the applicant had given her pills for abortion. The

last time she had become pregnant was in December 2019. Even after that their physical relations continued. Therefore, it is difficult to believe that the informant was not aware that the marriage was not taking place since the year 2012 and yet she continued to have physical relations with the applicant; even after the second instance of her pregnancy and abortion. In this view of the matter, it is difficult to believe that misconception of facts entertained by the informant resulted in keeping physical relations with the applicant. Therefore, at this stage, it appears that the relationship was purely a consensual relationship. In this background, custodial interrogation of the applicant is not necessary. He can be directed to attend the concerned police station and can be directed to co-operate with the investigation. That will suffice the purpose.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 832 of 2021 registered at V. P. Marg 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 cause any kind of harassment to the first informant.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)