

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

ANTICIPATORY BAIL APPLICATION NO. 2452 OF 2021

Chetan Suresh Salvi	 Applicant
Versus	
The State of Maharashtra & Anr.	 Respondents

Ms. Prabha U. Badadare for Applicant.
Smt. A. A. Takalkar, APP for State/Respondent.
Mr. Sanjay S. Patil for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th FEBRUARY 2022

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 323 of 2021 registered at Kalwa Police Station, on 22/09/2021, under sections 376, 504 and 506 of the Indian Penal Code (for short 'IPC').

2. Heard , learned counsel for the applicant and , learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by the prosecutrix herself. She was 40 years of age. She has stated that, she was residing with her mother. She got acquainted

with the applicant about five years before lodging of F.I.R. She had given her mobile number to the applicant. Thereafter they started conversing on telephone. They started meeting frequently. She has stated that, she started liking the applicant. The applicant told her that he would marry her. They started meeting at different places. They had physical relations. In the meantime, the informant came to know that the applicant was already married. She stopped meeting him. But after a few days the applicant came to her house and told her brother that he was in love with the informant. The informant's brother held meeting with the applicant's family including his wife. It was decided in the meeting that the applicant would not meet the informant after that. Even then, after a few days the applicant went to her house. Her case is that, he again kept physical relations forcibly with the informant against her wish. This was repeated frequently. On 24/07/2021 again there was physical relation against her wish. Finally informant lodged her F.I.R.

4. Learned counsel for the applicant submitted that the F.I.R. itself shows that, it was a consensual relationship and,

therefore, no offence is made out. The applicant's custodial interrogation is not justified.

5. Learned APP, as well as, learned counsel for the informant opposed this application. He submitted that, at the first instance when the physical relationship started, that time the applicant was already married, but had not told the informant. On the subsequent occasions physical relations were against her wish.

6. I have considered these submissions. The F.I.R. itself mentions that the informant was in love with the applicant. Though she claims that initially she was not aware that the applicant was married, but subsequently there was a meeting when the applicant's wife was also present. Therefore, from that point onwards at least she was aware that the applicant was married and there was no possibility of marriage between the informant and the applicant. Thereafter also there are instances of physical relationship. Though she claims that it was forcible and against her wish, she had not raised any shouts or had not sought any help from neighbours or any other persons on such occasions. Therefore, it is difficult to observe that physical relations were

against her wish. However, at this stage, it would not proper to observe anything further. The informant is 40 years of age, they were in relationship for sufficiently long period. There is substance in the submission of learned counsel for the applicant that it was a consensual relationship. In this context, custodial interrogation of the applicant is not justified. He can be protected by an order of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 323 of 2021 registered at Kalwa 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) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)