

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.21 OF 2023

X.Y.Z. Applicant

Versus

The State of Maharashtra
and another Respondents

.....
Mr. Vishwajeet Ramesh Jain, Advocate for the Applicant
Ms. R.P. Gour, APP for Respondents – State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 30th JANUARY, 2023

ORDER :

1. This application is filed under section 439 (2) of the Criminal Procedure Code, seeking cancellation of anticipatory bail granted to the respondent No. 2, by learned Additional Sessions Judge, Aurangabad by order dated 05/01/2023 in Crime No. 321 of 2022 registered with Jinsi Police Station, Aurangabad for offence punishable under sections 376(2)(n), 506, 507 of the Indian Penal Code.

2. Heard learned advocate for the applicant and learned Additional Public Prosecutor for respondent No.1 – State. Perused the documents placed on record.

3. The prosecutrix/informant is 45 years old lady. She has claimed in the FIR that from February, 2018 respondent No.2 established physical relations with her on false promise of marriage. He stayed at her home for 3 days. During this period, he repeatedly kept physical relations with her. Thereafter, from time to time, he kept physical relations with her. She has further alleges that he had obtained Video of their physical relations and by giving threat that he will publish the said Video on social media. He started blackmailing her and extracted amounts from her.

4. On registration of FIR, respondent No.2 moved anticipatory bail application to the Sessions Court, which is allowed. Hence, the present application.

5. Record indicates that during the subsistence of her marriage, the prosecutrix indulged in physical relations with the accused, which she claims that due to the false promise of marriage given by the accused. It is, therefore, not possible to accept that on false promise of marriage, she kept physical relations with accused. Prosecutrix is a major lady, and the physical relations *prima facie* appear to be consensual.

6. The Sessions Court while granting anticipatory bail to the accused has observed that, prosecutrix had surrendered herself to the physical desire of the accused though her second marriage was in subsistence. It is further observed that the investigation is almost complete, and nothing is to be recovered from the accused. In that view of the matter, the Sessions Court has rightly granted anticipatory bail in favour of accused/respondent No.2.

7. There is no illegality or perversity in the order impugned passed by the Sessions Court. The application being devoid merits is dismissed.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane