

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

**ANTICIPATORY BAIL APPLICATION NO.980 OF 2023
WITH APPLN/2692/2023 IN ABA/980/2023**

**TUSHAR VITTHAL BODRE
VERSUS
THE STATE OF MAHARASHTRA**

Mr. A. S. Sawant, Advocate for the applicant
Mr. S. P. Sonpawale, APP for the respondent/State
Mr. S. A. Kulkarni, Advocate for the informant

CORAM : R. M. JOSHI, J.

DATE : 25th JULY, 2023

P.C. :-

1. Mr. Kulkarni, learned counsel states that he has instructions to appear on behalf of the informant. Having regard to the nature of offence, application for assist to APP is allowed.

2. Applicant apprehends arrest in connection with Crime No. 302 of 2023 registered with Dhule Taluka Police Station, Dist. Dhule for the offences punishable under Sections 376, 420, 506, 506 of Indian Penal Code.

3. Informant has reported to the police that she is a divorcee and thereafter started residing with her mother. It is her contention that prior to two years the applicant herein has tried to establish closeness with her. Though she avoided him but the applicant told her that

everyone knows about their affair and that in some time the same would be known to her mother and sister too. It is alleged that prior to 8 months of lodging of the report at the insistence of the applicant informant went along with him and they stayed together like husband and wife. During this period there was physical relationship between them. It is however alleged that the applicant had established the said relationship without her consent. It is further stated that the applicant has obtained Rs. 1.5 lakhs from the informant and later on he refused to return the said amount. It is also stated in the report that the applicant performed marriage with another women.

4. Learned counsel for the applicant states that the applicant is major and the first information report clearly indicates that the relationship between them was consensual in nature. According to him merely because the applicant is now married present report is lodged.

5. Learned APP and learned counsel for the informant opposed the said contention by stating that there are specific allegations against the present applicant of establishing forcible physical relations with her. Learned counsel for the informant has drawn attention of the Court to the complaint lodged by the informant on 14/07/2023 wherein she states that after grant of relief to the applicant by this Court, the applicant is threatened the informant for withdrawal of the complaint. He therefore

states that stringent condition be imposed if this Court is inclined to allow the application.

6. Perusal of the first information report clearly shows that informant is a major. The incident of physical relationship relates back to 8 months prior to the lodging of the report. Though it is alleged that the applicant had performed sexual intercourse with her against her will however, she further states that both resided at the said place like husband and wife and that there was physical relationship between them. This Court finds substance in the contention of the counsel for the applicant that since the applicant is now married to another woman, present report could have been lodged. The submission that with the allegation in the first information report indicates that because the applicant has married such report came to filed. Having regard to these facts it is a fit case for protecting the liberty of the applicant. However, considering the apprehension in the mind of the informant, the applicant is directed not to enter the jurisdiction of the concerned police station till the filing of the charge-sheet. With this additional condition application is allowed in terms of interim order dated 4th July, 2023. Pending application, if any, stands disposed of.

(R. M. JOSHI, J.)

ssp