

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR CANCELLATION OF BAIL NO.128 OF 2023

XYZ
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. S. B. Akhade
APP for Respondent No. 1: Mr. G. O. Watamwar
Advocate for Respondent No. 2 : Mr. Vijay Wakale

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 04, 2023

PER COURT :

1. Applicant is seeking cancellation of anticipatory bail granted to the Respondent No. 2 by order dated 31.03.2023 by learned Additional Sessions Judge, Kopergaon in Criminal Bail Application No. 121/2023.

2. Applicant/informant had stated in the FIR that she developed acquaintance with the Respondent No. 2 on social media and on 05.01.2021 he called her in hotel and lured her to become partner in hotel business. It is alleged that he established sexual intercourse with her without her consent. It is further stated in the FIR that from time to time at various places there was

physical relationship between them. There is allegation that the Respondent No. 2 paid Rs. 50,000/- to the informant and later on the partnership could not be continued.

3. Learned Counsel for the Applicant by relying upon the judgment of this Court in case of Sachin Tukaram Muneshwar and Others Vs. The State of Maharashtra, MANU/MH/1843/2015 submitted that there was no unequivocal consent given by the Applicant for sexual relationship and hence, this amounts to offence under Section 376 of Indian Penal Code.

4. Perusal of the FIR itself shows that the physical relationship between the parties is from January, 2021. The report is lodged on 02.03.2023. The report must have been lodged after the partnership business was not materialized. There is no specific allegations in the FIR that she was compelled for establishing physical relationship by the Respondent No. 2.

5. Learned Additional Sessions Judge has rightly taken into consideration the contention of the

informant in the FIR and their long standing relationship. Delay in lodging the FIR has also been taken into consideration for the purpose of protecting the liberty of the Respondent No. 2. Applicant is an adult woman. There is no specific allegations that she was subjected to forcible sexual relationship.

6. In such circumstances, no fault can be found if the liberty of the Respondent No. 2 is protected by grant of anticipatory bail. Hence, application stands dismissed.

(R.M. JOSHI, J.)

Malani