

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1173 OF 2023

Nikil @ Nikhil Shravan Valvi

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. S. P. Pandit, Advocate for the applicant.

Mr. G. O. Wattamwar, APP for the State.

CORAM : R. M. JOSHI, J.

DATE : 6th NOVEMBER, 2023.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 0118/2023 registered with Dhadgaon Police Station, Dist. Nandurbar, for the offences punishable under Sections 376, 504 read with Section 34 of Indian Penal Code.

2. First informant claims that she had love relations with the applicant for three years. She further states that in the year 2021 when her marriage was to be fixed, present applicant had told her that he would marry her and therefore, she refused said proposal. Thereafter they were staying together. It is claimed by the informant that applicant used to promise her for marriage and

hence she had kept physical relations with him. It is alleged that on 21st April, 2023, when she again requested him to marry, he told her about his inability to marry her because of age difference between them. It is also alleged that thereafter meeting of panchas was called wherein it was decided to perform marriage however, later on applicant did not turn up for the said marriage. It is claimed that on the basis of false promise of marriage, physical relations are established and hence it amounts to rape.

3. Learned counsel for applicant submits that the First Information Report clearly indicates that informant and applicant were in love relationship and even there was some commitment given. Merely because the commitment is not worked out for any reason, it cannot be claimed that it is a case of rape. It is further pointed out that in the year 2021, applicant and informant were staying together and the physical relationship is consensual relationship.

4. Learned APP opposed the application by contending that in the First Information Report it is stated that only because of false promise of marriage, informant conceded for physical relationship with the applicant. Referring to the further statement in the First

Information Report and statement of witnesses, it is contended that it is a case wherein there is relationship not by free will but on false promise made by the applicant to the informant.

5. Informant is major. As per her own statement, she was in love relation with the applicant and even they stayed together for some time. In such circumstances, merely because later on marriage is not worked out, prima facie it cannot be held that the act is covered by offence punishable under Section 376 of Indian Penal Code. Nothing is to be recovered at the instance of the applicant. Charge-sheet is filed and hence it is a fit case for grant of anticipatory bail. Hence, application is allowed in terms of the interim order. Since charge-sheet is filed, condition of attending police station stands cancelled.

(R. M. JOSHI)
Judge

dyb