

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

ANTICIPATORY BAIL APPLICATION NO.1319 OF 2023

YASH SHIVAJI CHANDANSHIVE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Ms. S. K. Doke, Advocate for the applicant
Mr. G. O. Wattamwar, APP for the respondent/State
Mr. A. S. Usmanpurkar, Advocate for the informant

CORAM : R. M. JOSHI, J.

DATE : 4th NOVEMBER , 2023

P.C. :-

1. Heard.
2. Applicant apprehends arrest in connection with Crime No. 179 of 2023 registered with Bhoom Police Station, District Osmanabad for the offence punishable under Section 376(2) (n) of IPC.
3. The informant reported to the police on 11/07/2023 that she is related to the applicant. It is her contention that applicant used to propose her for the marriage however she always refused the said proposal. There is further contention that on 18/10/2021 there was physical relationship between them and though she refused the said physical relations, on the pretext that he would leave her he established

the said relations. It is also stated therein that thereafter though there is physical relationship between them however she claims that it was against her will.

4. Learned counsel for the applicant submits that the applicant and informant are relatives of each other and that there are disputes between them. In this regard reference is made to the agreement of lease between the father of the informant and mother of applicant. Apart from this she referred to the plaint proceeding bearing RCS No. 652 of 2022 filed by the grand father of the informant against mother of the applicant and others. By referring to the first information report it is submitted that at the most it is a case of consensual relationship and hence the offence alleged does not get attracted against the applicant.

5. Learned APP and learned counsel for the informant opposed the application on the ground that the informant has categorically stated in the first information report about the physical relations between them being not consensus. It is submitted that in view of the said statement, offence is made out and it is not the case for grant of anticipatory bail. Learned counsel for the informant also contended that after grant interim bail to the present applicant, he is pressurizing the informant and her family members.

6. Perusal of the first information report clearly shows that the informant is major and that the physical relationship between her and applicant started on or around 18/10/2021. Though the first informant now claims that the said relationship was not consensual however in the history given to the Medical Officer it is clearly stated that she had love relations with applicant. The report is lodged after two years of the alleged first physical relationship between them and in the light of a dispute between the parties, this Court finds substance in the contention of the learned counsel for the applicant that this could be a case of consensual relationship. Apart from this it is material to note that at nowhere in the first information report informant claims that applicant has refused to marry her and hence it is not a case of the establishment of physical relations on false promise of marriage.

7. The contention of the learned counsel for the informant about the applicant pressurizing the complainant and her family members is not supported by any material on record. Hence, the application is allowed in terms of interim order dated 10th August, 2023.

(R. M. JOSHI, J.)

ssp