

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

ANTICIPATORY BAIL APPLICATION NO.1668 OF 2022

**UJWAL HARIDAS BHOGALE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Mr. V. D. Sapkal, Sr. Advocate i/b Mr. Rakesh C. Bramhankar,
Advocate for Applicant
Mr. A. V. Deshmukh, APP for Respondents – State
Mr. H. P. Bondar, Advocate for Respondent No.3
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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 13th JANUARY, 2023

PER COURT :

1. Applicant apprehends arrest in Crime No.422/2022, registered with Kalamb Police Station, District Osmanabad, for offence punishable under Section 376(2)(n) of the Indian Penal Code.
2. Prosecutrix/informant, 42 years old lady, has lodged the FIR alleging that she was married with her husband in the year 1996 and one son is born out of said wedlock. After about two years of marriage she started residing separately from her husband. Applicant got acquainted with her through the person who was cultivating her land. On 16/06/2019, applicant came to her house and by giving assurance of marriage forcibly established physical relation with her. Thereafter, on the false promise of marriage

applicant repeatedly kept physical relations with her. In September, 2021, applicant took her to Jaysingpur, District Sangli, where they stayed for three days and at Lodge he forcibly kept physical relations with her.

3. Heard learned senior advocate for applicant, learned advocate for respondent No.3 and learned Additional Public Prosecutor for State. Perused the investigation papers and affidavit filed by respondent No.3.

4. Admittedly, the fact that applicant and informant are married is well known to them since 2019, when physical relation started between them. It *prima facie* appears from the FIR and papers of investigation that relations between applicant and informant were consensual. The case of the applicant is squarely covered by the observations of the Hon'ble Apex Court in ***Prashant Bharti Vs. State (NCT of Delhi) [(2013) 9 SCC 293]***, relied on by the learned senior advocate for applicant, wherein in similar facts it is held that when admittedly the prosecutrix was married, so also applicant, contention of the informant that physical relations were kept with her on assurance that applicant would marry her, is per se false and as such unacceptable.

Considering the facts of the present case and the observations in the above ruling, it is not possible to accept

allegation of the informant that on the false promise of marriage applicant kept physical relations with her.

5. Applicant has placed on record copy of the complaint lodged by his wife on 03/10/2022, against the informant to the Superintendent of Police, Osmanabad, alleging that informant is blackmailing the applicant and is trying to extract money from the applicant with threat to involve him in false case.

7. In the light of the above facts, applicant is entitled for protection. Application is, therefore, allowed by confirming interim order dated 07/12/2022. Till filing of charge-sheet, applicant shall attend concerned police station as and when called by investigating officer. Applicant shall not tamper prosecution evidence.

(NITIN B. SURYAWANSHI, J.)