

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

ANTICIPATORY BAIL APPLICATION NO.1779 OF 2022

**SHEKH MUSA S/O. SHEKH WAJIR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Mr. Dhanraj Ingole, Advocate h/f Mr. Suhail Farooqui Gulam,
Advocate for Applicant
Mrs. R. P. Gour, APP for Respondents – State
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 06th JANUARY, 2023

PER COURT :

1. Applicant apprehends arrest in Crime No.479/2022, registered with Shevgaon Police Station, Ahmednagar, for offence punishable under Sections 376, 506 read with 34 of the Indian Penal Code.

2. Informant/victim lodged FIR alleging that her husband expired in the year 2007 and she was willing to re-marry. One Samsher Patel approached her and informed that present applicant is searching for suitable match for him, preferably a widow. Informant agreed to perform marriage with applicant. On 26/06/2022, applicant approached informant and asked her to accompany him to his native village where he will marry her. Accordingly informant went to his village. She was kept there for five to six days. By giving her false promise of marriage, applicant

established physical relations with informant. Thereafter, when informant asked him as to when he will perform marriage, the applicant refused to marry her. Then Samsheer Patel brought informant back to her house.

3. Heard learned advocate for applicant and learned Additional Public Prosecutor for respondents – State. Perused the investigation papers.

4. Co-accused Samsheer Patel was arrested and he is released on regular bail. Medical examination of present applicant is also conducted during the course of investigation. Investigation is almost complete and charge-sheet is already forwarded to the trial Court.

5. Considering allegations made in the FIR and the investigation papers, *prima facie* the contention of applicant that there was consensual physical relation, is acceptable at this stage. Nothing is to be recovered from applicant. Though learned Additional Public Prosecutor strenuously opposed the application contending that allegations made against applicant are serious, however, in the facts of the present case pre-trial custodial detention of applicant is not warranted.

6. In the result, application is allowed by confirming the

interim order dated 23/12/2022. Applicant shall attend concerned police station as and when called by Investigating Officer. Applicant shall not enter the area of residence of informant till the trial is over. Applicant shall not indulge in any criminal offence while on bail. Applicant shall not tamper prosecution evidence.

(NITIN B. SURYAWANSHI, J.)