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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.772 OF 2023**

Vikas Gangaram Chavan

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi i/b Mr. Nilesh J. Mohite for the Applicant.  
Mr. H. J. Dedhia APP for the Respondent-State.

**CORAM : S. M. MODAK, J.**

**DATED : 16TH MARCH 2023**

**P. C. :**

1. Heard learned Advocate Mr. Joshi for the Applicant and learned APP Mr. Dedhia for the Respondent-State.

2. The Applicant is a police constable. He is booked for an offence of rape on the victim. On the complaint of the first informant, offence under section 376, 323, 506 read with 34 of IPC was registered at Badlapur (West) police station. Both the Applicant and the victim were in contact from March 2021 till January 2023. Both are married.

3. According to the first informant, one Poonam Kasabe, who is friend of the first informant informed the fact that they were in sexual relation, to husband of the first informant. The Applicant had sexual intercourse with the first informant, one near Shankar Temple lake and second in Hall of Omya Darshan society, Badlapur.

4. According to learned Advocate for the Applicant at the most the relationship can be said to be consensual. If such facts are there, this Court has dealt with such matter. It is elaborated in the judgment in case of *Shyjeesh K. Thomas Vs. State of Maharashtra & Anr.*<sup>1</sup> wherein the FIR was quashed.

5. Learned APP emphasized on two aspects. One is that he is a police constable, who is supposed to abide law, second is, he has recorded audio conversation of the first informant in his mobile handset and he has circulated the same. It is true that Poonam Kasabe got knowledge about their relationship from the Applicant, whereas through Poonam Kasabe, husband of the first informant got knowledge about their relationship. There is no allegation that this recording is made viral on social media.

6. Considering the aforementioned FIR, it is seen that relationship is consensual. It is true that she was not forced to have sexual intercourse, by claiming to be police constable. The Applicant undertakes to handover custody of mobile phone to police. If it is so, then anticipatory bail can be granted. Hence the following order is passed :

#### ORDER

- (a) In the event of arrest the Applicant-Vikas Gangaram Chavan be released on bail on furnishing personal bond and surety bond of Rs.25,000/- in C.R.No.40 of 2023 registered with Badlapur

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police station for the offences punishable under sections 376, 323, 506 read with 34 of IPC.

- (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner
- (c) The Applicant shall give attendance to the Badlapur police station on every Friday from 10 am to 12 noon until filing of the charge sheet.
- (d) The undertaking given by learned Advocate for the Applicant on instructions, to handover mobile handset to the police, is accepted. It be done within two weeks.
- (e) Needless to say, violating of the condition above will make the Applicant liable for cancellation of anticipatory bail after hearing.

7. Application is disposed of accordingly.

8. These are my prima facie observations and the trial Court may not be influenced by that.

9. All the parties to act on an authenticated copy of this order.

**[S. M. MODAK, J.]**