

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

BAIL APPLICATION NO. 989 OF 2023

AMIT VALJNATH KALE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Rajendrerraa Deshmukkha, Senior Advocate i/b Mr. Anand Dilip Kulkarni & Mr. Devang R. Deshmukh, for the Applicant.

Ms. Veera Shinde, APP for the State.

Ms. Reshma Nair i/b Mr. Devmani Shukla, for Respondent No. 2.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 04, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under sections 376, 376 (2)(n), 323, 506 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered vide C.R. No. 952 of 2022 with Wakad Police Station, Pune. The FIR is dated 08/11/2022. The applicant is arrested on 17/11/2022.

3. The applicant as well as the prosecutrix were at the relevant time both divorced. The prosecutrix made an application on the

matrimonial website. It is the allegation of the prosecutrix that on the promise to marry her, the applicant had physical relations with her. This continued till 18/10/2022. It is later on the prosecutrix realised that the applicant married in May 2022 and thereby cheated her.

4. The applicant was arrested on 17/11/2022 pursuant to the registration of FIR by the prosecutrix under the aforesaid sections. So far as the co-accused 2, 3 & 4 are concerned, it is the contention that all of them had come to her house after the prosecutrix questioned the applicant about his marriage and had threatened her for settlement.

5. Post divorce of the applicant as well as the prosecutrix with their respective spouses, the relationship between them since 2019 when they first met appears to be consensual. The applicant married in May 2022 without informing the prosecutrix. Whether the promise to marry was false since inception, which led to the consent, will be the subject matter of trial based on evidence having regard to the materials on record. Suffice it to observe that the applicant is in custody since 17/11/2022. The investigation is complete. The charge-sheet has been filed. Further incarceration will amount to

pre-trial punishment. The applicant can be enlarged on bail.

6. Learned APP and learned counsel for the prosecutrix opposed the application for bail on merits and also on the ground that the prosecutrix fears threat to her life and that of her son. I propose to impose stringent conditions on the applicant while enlarging him on bail. There are no criminal antecedents reported against the applicant. It is made clear that these are prima facie observations for the purpose of deciding this application. The trial Court shall proceed uninfluenced by these observations.

7. Hence, the following order :-

ORDER

(a) The application is allowed.

(b) The applicant-Amit Vaijnath Kale in connection with C.R. No. 952 of 2022 registered with Wakad Police Station, Pune shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more solvent sureties in the like amount.

(c) The applicant shall attend the investigating officer of Wakad Police Station, Pune once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(e) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(f) The applicant shall not enter Pune district till the trial is over except for the purpose of reporting to the investigating officer, attending the trial and for the completing legal formalities for release on bail.

(g) The applicant shall not establish any contact with the prosecutrix.

(h) If it is found that the applicant in any manner, threatened the prosecutrix or tried to establish any contact or pressurized her, the applicant to note that the same will be viewed seriously which may include the consequence of cancellation of bail.

8. The application is disposed of.

(M. S. KARNIK, J.)