



Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 991 OF 2023

Rohan B. Jagtap

...Applicant

Vs.

The State of Maharashtra

...Respondent

Mr. Aniket Nikam i/b Amit Icham, Ashish Satpute, Piyush Toshnival, Satyajeeet Mane, Pranav Patil, for Applicant.

Mr. M. G. Patil, APP for State.

Ms. Megha Bajoria, for Respondent No. 2.

CORAM:- N. J. JAMADAR, J.

DATED:- 2nd NOVEMBER, 2023

PC:-

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

2) This application is preferred for pre-arrest bail in connection with C.R. No. 102 of 2023, registered with Saswad Police Station, for the offences punishable under Sections 376(2) (n), 417, 419, 323, 504 and 506 of Indian Penal Code, 1860 ("the Penal Code").

3) When the application was listed before this Court on 6th April, 2023, this Court was persuaded to grant interim protection. In the intervening period, the investigation seems to have been completed and charge-sheet has been lodged.

4) The learned Counsel for the applicant submitted that the allegations in the FIR indicate that the relationship between the parties was consensual. As the parties fell apart, respondent No. 2 lodged a report with an exaggerated version making allegations of forcing her to abort. The learned Counsel invited the attention of the Court to the transcript of the conversation between the applicant and the first informant on WhatsApp, which according to him, negates the allegations in the FIR.

5) The learned Counsel for the respondent No. 2 would submit that the first informant and the applicant were in a relationship. However, the applicant had concealed his true identity. The learned Counsel for respondent No. 2 made an endeavour to explain away the messages on WhatsApp as an act of venting frustration on the part of the first informant.

6) The learned APP also resisted the prayer for pre-arrest bail.

7) I have carefully perused the allegations in the FIR. Prima facie, it appears that the applicant and the first informant were in a relationship as they were introduced by the sister of the

applicant. It also prima facie appears that sexual intercourse was consensual. Even after the true identity of the applicant was disclosed, the applicant and the first informant had physical relations for a long period. Material on record does not *prima facie* indicate that the consent of the first informant for sexual intercourse was given under misconception of facts, especially after the true identity of the applicant was disclosed. The allegations of forcing the first informant to abort the foetus by making her consume a pill are prima facie belied by the transcript of the conversation on WhatsApp.

8) Since the investigation is complete and charge-sheet has been lodged, at this length of time, the custodial interrogation of the applicant does not seem to be warranted. I am, therefore, persuaded to exercise the discretion in favour of the applicant.

9) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No. 102 of 2023, registered with Saswad Police Station, for the offences punishable under Sections 376(2)(n), 417, 419, 323, 504 and 506 of Indian Penal Code, 1860, the applicant be released on bail on executing a PR Bond in

the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant, any of her family members, any witness or any of the persons acquainted with the facts of the case.

III) The applicant shall co-operate with the investigation and attend Saswad police station as and when directed by the Investigating Officer.

IV) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]