



Diksha Rane

7 BA 1387-2023.doc

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

BAIL APPLICATION NO.1387/2023

SACHIN JANARDAN PAWAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Amit Singh for the applicant.

Mr. P. H. Gaikwad, APP for the State.

Adv. Priyanka H. Chavan for the respondent no.2.

CORAM : M. S. KARNIK, J.

DATE : SEPTEMBER 26, 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, 420, 504, 506 read with 34 of the Indian Penal Code (hereafter 'IPC' for short) registered on 16/8/2022 vide C.R. No.I-285/2022 with Dombivli Police Station.

3. The respondent no.2 was served and she wants to be represented through legal aid. As per her request, Advocate Ms. Priyanka Chavan appeared on behalf of the respondent

no.2.

4. I am not setting out the allegations in detail in view of the stand taken by the respondent no.2 and considering that the applicant is in custody since 16/8/2022. Prima facie, the relationship between the parties are consensual in nature. It is one of the accusations that on false pretext of marriage the applicant induced the respondent no.2 to enter into a physical relation with her.

5. Learned counsel for the respondent no.2 was at pains to point out that not only the applicant committed an act which is punishable under Section 376 of the IPC but also took large sum of money from her. It is further submitted that the respondent no.2 had taken a loan for satisfying the demands of the applicant. The respondent no.2 is servicing the loan and paying the installments.

6. By an affidavit affirmed on 16/9/2023, the applicant stated as under :-

“1. I say that I am accused in CR No.I-285/2022 registered with Dombivli Police Station, for offences U/SEC.376, 420, 504, 506 R/w. Sec.34 of Indian Penal Code.

2. I say that I have filed the Regular Bail Application before the Hon’ble Bombay High Court under section 439

of the Code of Criminal Procedure, 1973.

3. I say that I before being enlarged on bail I am ready and willing to deposit Rs.2,00,000/- (Rupees Two Lakhs) before the trial Court or to be handed over to the original complainant as the Hon'ble Court may deem fit as a pre-condition before my release on regular bail. I say that I shall also pay an amount of Rs.17,000/- Per Month towards the repayment of loan as taken by original complainant from the bank before 25th May, 2021."

7. The prosecutrix is present in the Court. The respondent no.2 has filed an affidavit in response to the said affidavit and stated thus:-

"2. That I have gone through the Affidavit dated 16.09.2023, filed by the Applicant in this Hon'ble Court, in which he has inter alia stated that he is ready and willing to deposit Rs.2,00,000/- before the trial court or to be handed over to the original complainant, as well as make a payment of Rs.17,000/- per month towards repayment of loan as taken by the original complainant from the bank before 25.05.2021.

3. That I am filing this Affidavit, for a limited purpose, in response to the Affidavit filed by the Applicant.

4. That as mentioned in my complaint, the Applicant, on the false promise of marriage, caused me to inter alia make payments totalling to Rs.7,43,000/-. Pertinently, in 2020, the Applicant, and his mother, on the promise of marriage to the Applicant,

represented to me that the Applicant needed money for setting up a gym, caused me to obtain personal loans from ICICI Bank and AXIS Bank with the assurance that the Applicant would service these loans.

5. That I have been servicing the bank loans mentioned in my complaint by paying the following monthly installments: -

Sr. No.	Loan Details	Due Date of the final installment	Monthly Installment Amount
i	ICICI Bank (Agreement No. LPTNE00041551526)	10.02.2026	Rs.10,699/-
ii	Axis Bank (Agreement No.PPR032705086659)	10.02.2025	Rs. 5,915/-

6. That I am a single mother, working as a service officer at HDFC Bank. After making payments towards the repayment of the above-mentioned bank loans, I am left with a paltry sum to look after the needs of my child and me. I am therefore under tremendous financial stress.

7. That it is under these circumstances, I am willing to consent to the prayer of the Applicant to be released on bail, and accept the terms set out by the Applicant in his Affidavit, without prejudice to my other rights and contentions.

8. That the Applicant may please be directed to make the payment of: -

i. Rs.2,00,000/-, before being enlarged on bail;

ii. The amounts corresponding to the installments mentioned in

paragraph no. 5., on or before the 7th day of each month effective from November until the due date of the final installment mentioned above.

That these payments be made into my bank account, bearing account no. 0669104000116114, held with IDBI Bank Ltd, having IFSC Code:- IBKL0000669.

9. That I have an apprehension that the Applicant may default in his assurances given in his Affidavit including in making payments towards the monthly installments and/or may pressurize me to withdraw my complaint. Therefore, I pray that this Hon'ble Court may treat the Applicant's Affidavit as an undertaking to this Hon'ble Court. That this Hon'ble Court may grant me leave to apply for cancellation of the Applicant's bail, in the event the Applicant is released on bail and subsequently defaults on his undertakings mentioned in his Affidavit and/or pressurizes me in any manner."

8. Learned counsel for the applicant, on instructions, submits that the applicant will abide by the statements made in the affidavit. In the facts of the present case and considering that an affidavit has been filed by the applicant voluntarily, it is necessary to observe that in case of any breach of any terms of the affidavit, the consequences of cancellation of the bail granted may follow.

9. The affidavit filed by the applicant is accepted as an undertaking to this Court and the same shall be abided by the applicant. The applicant is in custody since 16/8/2022 with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has been filed. There are no criminal antecedents reported against the applicant. In my opinion, the applicant does not appear to be a flight risk. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Sachin Janardhan Pawar in connection with C.R. No.I-285/2022 with Dombivli Police Station, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Dombivli police station once in two months every first Monday of the alternate month, between 11.00 a.m. and 1.00 p.m. commencing November, 2023.
- (e) 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.

(f) 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.

(g) The applicant shall attend the trial regularly.

(h) An affidavit filed on behalf of the applicant is accepted as an undertaking to this Court. The applicant to abide by the statements made in the affidavit. It is made clear that in case there is any default on the part of the applicant, it is open for the respondent no.2 to apply for cancellation of bail.

(i) The applicant shall not try to establish the contact with the respondent no.2.

10. The application is disposed of.

11. I appreciate the assistance rendered by advocate- Ms. Priyanka Chavan who appeared on behalf of the prosecutrix at my request. The Legal Services Authorities to pay her the fees prescribed.

(M. S. KARNIK, J.)