

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

ANTICIPATORY BAIL APPLICATION NO. 1305 OF 2023

Shashank Mishra alias Shaan Mishra
v/s.

... Applicant

The State of Maharashtra

.... Respondent

Mr. Shailendra Mishra a/w. Mr. Sharad Rai, Mr. Elton George,
Mr. Prem Tanha and Ms. Saloni Parekh for the Applicant.

Mr. R.M. Pethe, APP for the State.

Mr. Shreyansh R. Mithare a/w. Ms. Priya Gupta for the Intervenor.

Mr. D.T. Shinde, PSI, Pandharpur Rural Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 02nd MAY, 2023.

P. C. :-

. Leave granted to the learned counsel for the Applicant to place on record copy of order dated 26/04/2023 passed by the learned Additional Sessions Judge, Borivali Div., Goregaon, Mumbai in Anticipatory Bail Application No.565/2023.

2. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicant apprehending his arrest in C.R.No.202/2023 registered at Goregaon Police Station, Mumbai for offences punishable under sections 376(2)(n), 377, 506, 509 of the Indian Penal Code.

3. Heard learned counsel for the Applicant and learned APP for the

State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. The aforesaid crime was registered pursuant to the FIR lodged by the prosecutrix. A perusal of the FIR prima facie reveals that the Applicant and the first informant got acquainted with each other on 28/12/2021. Their relationship developed into love relationship and they indulged in sexual relationship. The FIR reveals that though the Applicant had allegedly subjected the first informant to unnatural sex on 09/01/2022, she had continued sexual relationship with him till August, 2022 which fact prima facie raises a doubt about lack of consent or willingness.

5. The records prima facie reveal that the relationship between the Applicant and the first informant (both adults) was consensual. The FIR has been filed only after the first informant came to know that the Applicant was also having relationship with another girl. Considering the above facts and circumstances, this is not a case which would justify custodial interrogation. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.202/2023 registered at Goregaon Police Station, Mumbai, he shall be released on bail on furnishing bail bonds in

the sum of Rs.25,000/- with one or two sureties in the like amount ;

(b) The Applicant shall report to the Investigating Officer for two days i.e. on 05th and 06th May, 2023 between 11:00 a.m. to 02:00 p.m.

(c) The Applicant shall surrender his mobile phone to the concerned Investigating Officer ;

(d) The Applicant shall not interfere with the prosecutrix and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

(e) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

6. The Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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