

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 1590 OF 2023

Asbab Muksud Anware ...Applicant
Versus
The State of Maharashtra and Others ...Respondents

Mr. Sanjeev P. Kadam with Ms. Aditi K. Rajput with mr.
Pratik P. Deshmukh i/b Prashant P. Raul, for Applicant.

Mrs. S. S. Kaushik, APP for State-Respondent No. 1.

Mr. Aniket Nikam i/b Mr. Amit Ichan, for Respondent No. 2.

Mr. O. B. Kawde, PSI, Mahad Police Station, Alibag.

CORAM:- N. J. JAMADAR, J.

DATED:- 7th SEPTEMBER, 2023

P.C.:-

- 1) Heard the learned counsel for the applicant and the learned APP for the State.
- 2) This is an application for pre-arrest bail in connection with C.R. No. 126 of 2023, registered with Alibag Police Station, for the offences punishable under Sections 376, 376(2) (n), 504 of Indian Penal Code, 1860 ("the Penal Code").
- 3) When the application was listed before this Court on 5th June, 2023, this Court was persuaded to grant interim protection observing, inter alia, as under:-

“...5. On prima facie perusal of the material on record and considering the allegations in the First Information Report (for short ‘F.I.R’), it appears that the informant prima facie appears to be in relationship with the applicant from 11th December, 2019. From the material on record prima facie, it appears that the promise at the inception was not false. The Apex Court on occasion to consider such offence in the case of **Pramod Suryabhan Pawar Vs. the State of Maharashtra** decided on 21 August, 2019, reported in (2019) 9 SCC 608. At this stage, subject to further investigation, Applicant has made out case for interim protection....”

4) The Court had also directed the applicant to co-operate with the investigation and attend the Alibag police station.

5) The learned APP, on instructions, submits that the applicant has appeared before the Investigating Officer as directed and, post completion of investigation, chargesheet has been filed.

6) In view of the aforesaid developments, the learned Counsel for the applicant submitted that the interim order be made absolute.

7) Mr. Nikam, the learned Counsel for the respondent No. 2, however, submitted that there are allegations in the FIR, which indicate that the applicant had no intention to solemnize the marriage since the inception of the relationship.

8) As observed, prima facie the applicant and the first informant were in a relationship since the year 2019. Whether the consent of the prosecutrix, despite such long standing

relationship, was vitiated on account of the misconception would be a matter of trial. As the investigation is complete for all intent and purpose and the chargesheet has been lodged, at this stage, interim order of pre-arrest bail deserves to be made absolute.

9) Hence, the following order:-

ORDER

- I) The order of interim bail dated 5th June, 2023, is made absolute on the terms and conditions incorporated therein.
- II) In addition, the applicant shall regularly attend the proceedings before the jurisdictional Court.
- III) The applicant shall not tamper with the prosecution evidence, contact the first informant and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- IV) The application stands disposed.

[N. J. JAMADAR, J.]