

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

ANTICIPATORY BAIL APPLICATION NO. 2304 OF 2023

Mr. Mehul Ashok Ubale ...Applicant
Versus
State of Maharashtra ...Respondent

Mr. Sachin Chandan, for the Applicant.
Mr. N. B. Patil, APP for the State.

CORAM: N. J. JAMADAR, J.
DATED: 21st AUGUST, 2023

Order:-

1. Heard the learned Counsel for the parties.
2. Apprehending arrest in CR No.171 of 2023, registered with Badlapur Police Station, Badlapur (W), District Thane, for the offences punishable under Section 376 of the Indian Penal Code, 1860 ("the Penal Code"), the applicant has preferred this application for pre-arrest bail.
3. The victim lodged report with the allegation that, she became acquainted with the applicant while they both were working at Asher I.T. Park, Thane. The applicant developed proximity with her and used to regularly communicate with her. In the month of November, 2021 the applicant had

physical relations with her consent. The applicant promised the victim that he would solemnize marriage with her and induced the victim to have physical relations. On a number of occasions, the applicant had physical relations with her, without her consent. Eventually the applicant started to avoid the victim and refused to solemnize marriage on one or the other pretext. Hence, the report.

4. Mr. Chandan, the learned Counsel for the applicant, submitted that the physical relations were consensual. The victim was 27 years of age when they had physical relations. At best, it is a case of relationship between two consenting adults turning astray. Therefore, the applicant deserves exercise of discretion.

5. The learned APP resisted the prayer for pre-arrest bail.

6. It is true the first sexual intercourse between the victim and the applicant, according to the victim, was with her consent. However, the allegations in the FIR are not restricted to the first act. There are clear and specific allegations that the victim was sexually assaulted on a number of occasions without her consent. At this stage, the allegations in the FIR make out a strong *prima facie* case against the applicant. I am, therefore, not persuaded to

accede to the submission on behalf of the applicant that the relationship, having commenced with consent, there can be no offence punishable under Section 376 of the Penal Code. Having regard to the gravity of the allegations, in my view, the custodial interrogation of the applicant is warranted for effective investigation.

7. Hence, the following order:

: O R D E R :

Application stands rejected.

[N. J. JAMADAR, J.]