

AGK

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

ANTICIPATORY BAIL APPLICATION NO.1440 OF 2022

Aniket Ishwar Bhatewara ... Applicant

V/s.

The State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.3742 OF 2022

IN

ANTICIPATORY BAIL APPLICATION NO.1440 OF 2022

Sayali Sanjay Bhorde ... Applicant

In the matter between

Aniket Ishwar Bhatewara ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Sanjeev Kadam with Mr. Serul Shah and Mr. Prashant Raul i/by Mr. Abid Mulani for the applicant in ABA/1440/2022.

Mr. Sujit B. Shelar for the applicant in IA/3742/2022.

Mrs. Veena Shinde, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 14, 2023

RC.:

1. Apprehending arrest in connection with C.R. No.190 of 2022 registered with Yerawada Police Station, Pune for the offences punishable under Sections 376, 276(2)(n), 377, 417, 323, 506, 506 of Indian Penal Code, 1860, the applicant is seeking relief

under Section 438 of the Criminal Procedure Code, 1973.

2. As per prosecution, the applicant had repeated sexual intercourse with the victim based on promise of marriage. According to prosecution, on 18 March 2021 the applicant and victim came in contact. The relationship started on 9 April 2021. On 25 September 2021, 26 September 2021 and 22 November 2021 there was sexual intercourse by the applicant with the victim. Refusal to perform marriage resulted in registration of the first information report.

3. The applicant, therefore, filed application under Section 438 of the Criminal Procedure Code, 1973 which has been rejected by the learned Sessions Judge by order dated 11 May 2022. Aggrieved thereby, the applicant has filed present anticipatory bail application.

4. This Court by order dated 13 June 2022 protected the applicant. Said interim order is in force till today. There is no grievance that the applicant has not complied with the conditions imposed by this Court in the interim order.

5. According to the applicant, the physical relationship and sexual intercourse was consensual in nature and there was no dishonest intention at the inception of the relationship. Refusal to perform marriage has resulted in lodging of the first information report.

6. Per contra, learned advocate for the victim and learned APP submit that at this stage there is no material to show that the relationship was consensual. The applicant never intended to

marry the victim. Considering the nature and gravity of offence, custodial interrogation of the applicant is necessary.

7. Having perused the material on record, following factual scenario emerges: (i) the relationship between the applicant and victim started on 9 April 2021; (ii) the period of relationship as per the first information report is around one year; (iii) during the relationship the applicant and victim visited various hotels; and (iv) refusal to marry the victim resulted in filing of the first information report.

8. The factors mentioned above prima facie indicate that the relationship between the applicant and victim was consensual in nature. The applicant was protected by interim order of this Court.

9. Considering the aforesaid facts, the applicant has made out a case for confirmation of the interim relief.

10. For the reasons stated above, the interim relief granted by this Court on 13 June 2022 is confirmed on the same terms and conditions.

11. The anticipatory bail application is allowed in above terms. No costs.

12. In view of disposal of the anticipatory bail application, nothing remains to be adjudicated in the interim application and the same stands disposed of as infructuous.

(AMIT BORKAR, J.)