



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

BAIL APPLICATION NO.2960/2023

PUNEET SINGH SHAMBHUKUMAR SINGH ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO.3957/2023
IN
BAIL APPLICATION NO.2960/2023**

XYZ ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Anand Jondhale a/w Adv. Medha Jondhale a/w Adv.
Rajnandini Jondhale a/w Adv. Harshvardhan Shinde h/f
Jondhale and Co. for the applicant.

Adv. Nidhi Chandanshive for the Intervener.

Ms. Rutuja Ambekar, APP for the State.

PSI Tanaji Patil, Vanrai Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 30, 2023.

P.C. :

1. Heard learned counsel for the applicant through V.C.,
learned counsel for the intervener and learned APP for the
State.

2. This is an application for bail in respect of the offence punishable under Sections 376(2)(n) and 377 of the Indian Penal Code registered on 01/08/2023 vide C.R. No.273 of 2023 with Vanrai Police Station, Mumbai.

3. Learned counsel for the applicant submitted that the parties were in a consensual physical relationship. My attention is invited to the decisions of the Hon'ble Supreme Court in the case of Mandar Deepak Pawar Vs. The State of Maharashtra and Anr.¹ and in the case of Pramod Suryabhan Pawar Vs. The State of Maharashtra and Anr.².

4. Learned counsel for the applicant invited my attention to the complaint made by the prosecutrix. Learned counsel for the applicant was at pains to submit that the distinction has to be made between the false promise of marriage given on the understanding by the maker that it will be broken and the breach of promise which is made in good faith but subsequently not fulfilled.

5. This application was filed at the stage when the charge-sheet was yet to be filed when the matter was under

1 Criminal Appeal No(s). 442 of 2022

2 Criminal Appeal No. 1165 of 2019

investigation. A copy of the charge-sheet has been tendered in this Court. On reading of the complaint, the prosecutrix has made an accusation that the physical relation was an outcome of promise made by the applicant to marry the prosecutrix.

6. Learned APP and learned counsel for the intervener opposed the application. Learned APP invited my attention to the statement of one of the witness 'P' who has stated that the prosecutrix was introduced to her by the applicant as his wife.

7. At this stage, I do not wish to make any observations on this bail application as the charge-sheet has now been filed. Considering the nature of the materials which have come on record during the course of the investigation, it would be appropriate if the applicant approaches the trial Court for bail. It is not that this Court is expressing a disinclination to entertain the present application only because the charge-sheet is filed. Having gone through the materials collected during the course of the investigation, I felt it appropriate that the applicant should approach the

trial Court for bail in view of the changed circumstances, in the first place. I am, therefore, not expressing any opinion on the submissions advanced. The trial Court shall consider the application so filed, on its own merits and in accordance with law, without being influenced by any observations made by me in this order or the one that was made by the trial Court earlier while rejecting the application for bail prior to the filing of the charge-sheet.

8. The applicant is at liberty to approach the trial Court for bail. If such an application is filed, the same shall be considered expeditiously by the trial Court.

9. The bail application is disposed of in the above terms. The interim application also stands disposed of.

(M. S. KARNIK, J.)