



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

46 ANTICIPATORY BAIL APPLICATION NO. 34 OF 2024

Akshay Laxmikant Swami

VERSUS

The State of Maharashtra and another

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Advocate for Applicant : Mr. Nilesh S. Ghanekar

APP for Respondents: Mr. P.K. Lakhotiya

Advocate for assist to A.P.P. : Mr. Shashikant E. Shekade

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CORAM : SHIVKUMAR DIGE, J.

DATED : 19th AUGUST, 2024.

PER COURT :-

1. The applicant apprehends arrest in connection with crime No.290 of 2023 registered with Harsul Police Station, district Aurangabad, for the offences punishable under Sections 376, 376(2) (n), 506 of the Indian Penal Code.

2. It is the prosecution's case that the applicant and the informant had friendship and the said friendship was developed in love relations. It is alleged that the applicant had promised the informant that he will marry with her. On that count, there were physical relations between the applicant and the informant. It is alleged that thereafter, the applicant refused to marry with the informant.

3. It is the contention of the learned counsel for the applicant that

the physical relations between the applicant and the informant were consensual and the informant is major. The alleged first sexual relations between the applicant and informant took place in the year 2021. There is delay in lodging the F.I.R. Considering the allegations against the applicant, his custodial interrogation is not required and requested to allow the application.

4. It is the contention of the learned APP that the applicant had sexually assaulted the informant with the promise of marriage with her. The applicant kept physical relations with the informant on the pretext of performing the marriage. But thereafter, the applicant has refused to marry with the informant. The applicant is not denying the relationship with the informant. Considering the allegations against the applicant, his custodial interrogation is required and requested to reject the application.

5. I have heard both the learned counsel. Perused the F.I.R. and the police papers produced on record. It appears from the record that the first physical relations between the applicant and informant occurred in the year 2021. Thereafter, on several occasions it had continued. The informant is major. It appears that the physical relations of the applicant with the informant were consensual. The investigation is completed and the charge sheet is filed against the

applicant. Considering the allegations against the applicant, his custodial interrogation is not required and I pass the following order :-

ORDER

- (i) The application is allowed.

- (ii) The interim anticipatory bail granted to the applicant vide order dated 05.01.2024 stands confirmed on the same terms and conditions with following modification:-
 - (a) the applicant shall attend the concerned police station as and when required by the Investigating Officer.

(SHIVKUMAR DIGE, J.)

rlj/