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**IN THE HIGH COURT OF JUDICATURE OF BOMBAY**  
**BENCH AT AURANGABAD**

**APPLICATION FOR CANCELLATION OF BAIL NO.17 OF 2024**

XYZ

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

.....  
Mr. Shivraj B. Kadu, Advocate for the applicant  
Mr. S. R. Yadav Lonikar, APP for respondent - State  
.....

**[CORAM : NITIN B. SURYAWANSHI, J.]**

**DATE : 5<sup>th</sup> APRIL, 2024**

**ORDER :**

1. By this application, filed under section 439 of the Criminal Procedure Code, victim seeks cancellation of anticipatory bail granted to respondent No.2 by learned Additional Sessions Judge, Amalner.
2. Victim has lodged FIR against the second respondent at Amalner Police Station, District - Jalgaon which is registered at Crime No. 0571 of 2023 for offence punishable under sections 376, 376 (2) (N) of the Indian Penal Code.
3. It is, in short, alleged by the victim that she is a lecturer and she had love relations with the second respondent since last two years. Respondent No.2 kept physical relations with her, by

giving promise of marriage. On 18<sup>th</sup> December, 2023, at 9.00 a.m. respondent No.2 told victim to be ready with her luggage and they he will take her and they with go to Nashik on 19<sup>th</sup> December, 2023 and perform marriage and he has arranged everything. Three friends of respondent No.2 came at 9.00 a.m. on 19<sup>th</sup> December, 2023 and respondent No.2 told them that they will proceed to Nashik at 12.00 noon. When victim and respondent No.2 were proceeding towards their room, respondent No.2 called his mother and informed her that he and victim are going to Nashik to perform marriage. At that time, his mother told him that if he performs marriage with victim, she will die. Thereafter, other family members of respondent No.2 also prevented him from marrying with victim. Then respondent No.2 refused to marry with victim and left her. Hence the victim lodged FIR.

4. Learned Sessions Judge has granted anticipatory bail to respondent No.2, observing that, *"The FIR clearly makes that physical relations with informant have taken place with her consent. The FIR nowhere makes out that applicant forced himself upon informant at any time. It appears that merely because applicant refused to marry victim, she has filed the FIR"*.

5. Learned Sessions Judge is justified in exercising discretion

in favour of respondent No.2. Nothing is to be recovered from respondent No.2. Learned APP submits that charge sheet in the present case is filed on 26<sup>th</sup> March, 2024. It is settled legal position that very overwhelming circumstances are necessary for cancellation of bail granted to accused. No such circumstances are made out by applicant in the present application.

6. Application being devoid of merit, is dismissed.

**[NITIN B. SURYAWANSHI]  
JUDGE**

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