



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

ANTICIPATORY BAIL APPLICATION NO. 1275 OF 2023

SOMESH PRAKASH GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA

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Mr. Yogesh A. Jadhav, Advocate h/f Mr. Pramod A. Kulkarni, Advocate
for Applicant
Mr. S.P. Sonpawale, APP for Respondents/State
Mr. Datta Kale, Advocate h/f Mr. Aniruddha B. Ghule, Advocate for
Informant

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 21st MARCH, 2024

PER COURT :

1. Applicant apprehends arrest in C.R. No.496/2023, registered with Sadar Bazar Police Station, Jalna, for offence punishable under Sections 376(2)(n), 376, 417, 323, 354, 506 r/w 34 of the Indian Penal Code.

2. This is a second FIR lodged by victim making similar allegations. Earlier she has lodged FIR at C.R. No.528/2022 alleging forcible sexual contact by applicant. In that crime, applicant was arrested and he was in jail for two months. Thereafter he is released on regular bail. In present FIR it is alleged by victim that after his release on bail, applicant again contacted her and assured to marry her and again established physical contact with her. Thereafter, date of marriage was fixed by the relatives. Thereafter applicant's brother-in-law Gaurav Trimbake was trying to get close to victim.

Subsequently, applicant stopped receiving her phone calls and therefore, she has lodged the FIR.

3. Heard learned advocate for applicant, learned APP for respondents/State and learned advocate for informant. Perused the investigation papers.

4. It is the case of applicant that after he was released on regular bail, victim started contacting and pressurizing him. Therefore they met again. He does not deny the physical contact with victim. Victim is a major lady and *prima facie* the relations appear to be consensual.

5. Learned advocate for victim and learned APP opposed the application submitting that applicant has tried to contact victim and therefore, he may not be granted discretionary relief of anticipatory bail.

6. Charge-sheet is already filed in present crime, applicant's cell-phone is already seized and nothing is to be recovered from him. Therefore, pre-trial custodial detention of applicant is not necessary, as trial is not likely to conclude in near future. Considering the facts of present case, applicant has made out case for grant of anticipatory bail.

7. In the result, application is allowed by confirming

interim protection granted to applicant by order dated 03/08/2023.

8. Applicant shall not, in any manner, try to contact prosecution witness and victim and shall not tamper prosecution evidence. If applicant violates the condition imposed on him, prosecution and victim are at liberty to approach for cancellation of bail.

(NITIN B. SURYAWANSHI, J.)