

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

ANTICIPATORY BAIL APPLICATION NO. 173 OF 2024

Balkrushna Parmeshwar Gurav

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Rushikesh Kale for Applicant.

Smt. M. H. Mhatre, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 01 FEBRUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.323 of 2023 registered at Kamti Police Station, Solapur Rural, on 18.10.2023, under sections 376(2)(n), 323, 417, 418, 504 and 506 of the Indian Penal Code.

2. Heard Mr. Rushikesh Kale, learned counsel for the applicant and Smt. Mhatre, learned APP for the State.

3. The F.I.R. is lodged by the victim herself. She has stated that, she was 28 years of age. The informant was knowing the applicant from her school days. They were studying in the

same class. In May 2020, the applicant came to her house and reestablished their acquaintances. After a few days, he told her that, he loved her. She refused his proposal. But, in June 2020 they had their first physical relations. She has stated that, it was against her wish. But the applicant told her that, he had captured the incident on his mobile phone and that, he would make it viral. Because of this threat, she continued to have physical relations with him at different places. In this background, the informant insisted that the applicant should marry her.

4. On 28.01.2021, the applicant took her to Alandi and took her signatures on the documents and told her that they were married. Even after that the applicant insisted that the informant should stay with her mother. The informant told her family that, she was married to the applicant. Her mother questioned the applicant. He came to their house and tore the documents about their marriage. The applicant's father came to the informant's house and told her mother that they should get the informant married because the applicant was already married and had two children. The informant then got married to another person on

07.07.2021. Even thereafter, the applicant continued visiting her house and started threatening her. It is her case that, because of his threats the informant accompanied him. They eloped together. The informant's mother lodged a complaint at Karkamb police station about the informant's missing from the house. The applicant took her to that police station and dropped her there. At that time, the informant had given a statement that, she had left her house on her own accord because she was forced to marry by her mother. Thereafter the informant stayed with the applicant at Kamte for about two months. Thereafter there was some dispute. She again went back to reside with her mother. In December 2021 again the applicant contacted her and they started residing together at Hadapsar, Pune. But, thereafter again the dispute arose. The informant came back to reside with her mother and finally the informant lodged her F.I.R.

5. Learned counsel for the applicant submitted that, from the narration in the F.I.R. itself it is clear that it was a consensual relationship and no offence as alleged is made out. The applicant and the informant were staying together for a long period. It was

known to all others and, therefore, there was no intention to cheat and commit any offence on the part of the applicant.

6. Learned APP opposed these submissions. According to the investigating agency, the applicant's custody is necessary to recover the video shooting.

7. I have considered these submissions. From the bare reading of the F.I.R. itself, it is clear that it was a consensual relationship. They had stayed together for a long period with full knowledge to their family and other villagers. The investigation papers show that, even the *Tantamukti* committee of the village had intervened in the matter. Therefore, their relationship was not concealed from others. In this view of the matter, it is difficult to believe that the offence U/s.376 of the I.P.C. is made out. From the conduct of the informant, it does not appear that she was forced in any manner to keep relations with the applicant. Considering all these factors, the applicant's custodial interrogation is not necessary. He can be protected U/s.438 of the Cr.p.c.

8. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.323 of 2023 registered at Kamti Police Station, Solapur Rural, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) The Applicant shall attend the concerned Police Station on every alternate Sunday till filing of the charge-sheet and shall cooperate with the investigation.
- iii) The Applicant shall not cause any harassment to the informant in any manner.
- iv) The Application is disposed of.

(SARANG V. KOTWAL, J.)