

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2305 OF 2024

Nitin Chandrakant Shinde ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Ranjeet M. Pawar for Applicant.

Mr. Tanveer G. Khan, APP for Respondent-State.

Mr. Dattatray Gorakh Shinde, Police Constable, Barshi City Police Station.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 03, 2024

P.C. :

. Heard Mr. Pawar, learned counsel for the applicant and Mr. Khan, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0515 of 2024 dated 20.06.2024 registered with Barshi City Police Station, District - Solapur Rural, for offences under Sections 376 and 506 of the Indian Penal Code, 1860 (IPC).

3. The FIR was registered on the statement of the informant, who claimed that the applicant sexually exploited her on false promise of marriage. It is alleged that after the informant discovered that the applicant was married and he had children, the applicant told her that she could do whatever she wanted and thereafter, he further took photographs of the informant. On the threat of making the photographs viral, he allegedly had forcible sexual intercourse with the informant.

4. The learned counsel for the applicant has referred to a prior FIR dated 11.11.2022 registered at the very same police station at the behest of the informant, wherein she claimed that she married the applicant on 21.06.2022. In the said FIR, an allegation was made that the applicant

had assaulted her and hence offences under Sections 324 and 506 of the IPC were registered. It is submitted that the allegations made in the present FIR are contrary to the assertions made in the earlier FIR. It is also submitted that the entire story, concerning the present FIR, is concocted and this is also evident from certain civil proceedings pending between the parties, concerning a property that they had jointly purchased. The applicant asserts that he and the informant are married.

5. The learned APP submits that a perusal of the statement of the informant leading to registration of the present FIR does show ingredients of the offences registered against the applicant. There is a serious allegation about the applicant threatening to make photographs of the informant viral and under the threat of doing so, sexually exploited her. It is submitted that this aspect may be taken into consideration while disposing of the present application.

6. This Court is inclined to allow the present application for the following reasons:-

- a. The documents on record show that in the prior FIR dated 11.11.2022 registered at the behest of the informant herself at the very same police station, she has specifically asserted that she and the applicant got married to each other on 21.06.2022. But, in the statement leading to registration of the present FIR, given on 20.06.2024, the informant has alleged that the applicant sexually exploited her on false promise of marriage. On the face of it, the assertion made in the present FIR appears to be contradictory to the statement of the informant herself in the earlier FIR dated 11.11.2022;
- b. In the present FIR, the informant has alleged that she came to know on 25.06.2022 from relatives that the applicant was actually already married and he had children. This statement

when compared with the earlier FIR shows that the informant came to know about marital status of the applicant four days after having married him on 21.06.2022. But, there is no mention of the said fact in the aforesaid earlier FIR registered on 11.11.2022, thereby giving credence to the contention raised on behalf of the applicant that the informant appears to have come with a false and concocted story in the present FIR;

- c. In the statement leading to registration of the present FIR itself, the informant has stated that she was earlier married in the year 2014 and she has a child from her earlier husband, but thereafter she had separated from him in the year 2019. It is specifically asserted that a proper divorce in terms of law has not happened between the informant and her husband. In such a situation, when the informant herself was well aware about the fact that her marital status is that of a married woman yet to be divorced, she could not have been in a position to marry the applicant and the theory of false promise of marriage given by the applicant *prima facie* falls to the ground;
- d. The material on record *prima facie* shows the contradictory stands taken by the informant at different points in time, thereby indicating that the assertions made on her behalf in the present case are rendered doubtful;
- e. The applicant is ready to co-operate with the investigation.

7. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR

No.0515 of 2024 dated 20.06.2024 registered with Barshi City Police Station, District - Solapur Rural, he shall be released on bail on furnishing PR Bond of Rs.25,000/- [Rupees Twenty Five Thousand only] with one or two sureties in the like amount;

- B. The applicant shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 06.09.2024 and thereafter as and when called by the investigating officer. He shall co-operate with the investigation, including surrendering his mobile phone, if so demanded by the investigating officer;
- C. The applicant shall not, in any manner, contact the informant or her family in any manner during the pendency of the investigation;
- D. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

8. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

9. The application is disposed of.

(MANISH PITALE, J.)