

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

ANTICIPATORY BAIL APPLICATION NO. 2 OF 2024

Niket Babasaheb Kamble

..Applicant

Versus

State of Maharashtra

..Respondent

Mr. Vikas Kolekar for Applicant.

Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 8 JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.406 of 2023 registered at Shahapur Police Station, Kolhapur, on 27.11.2023, under sections 376 and 376(2)(n) of the Indian Penal Code.

2. Heard Shri. Vikas Kolekar, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The F.I.R. is lodged by the victim herself. She was 23 years of age at the time of lodging of the F.I.R. She has stated that, she was knowing the applicant since about 7 to 8 years prior to

lodging of the F.I.R. She has described that the initial friendship turned into a love affair. Thereafter, they kept physical relations with consent at various places. They wanted to get married, however, there was opposition from their families. In spite of that, since 2018 both of them started living in 'live in' relationship. From the physical relationship she got pregnant. It is her case that the applicant took her to the medical officer who was known to him. She was given a tablet because of which her pregnancy was terminated. Thereafter, there were some talks of their marriage. The families shown some willingness, but ultimately the marriage could not taken place. Therefore, this F.I.R. is lodged.

4. Learned APP, on instructions, states that the victim's statement U/s.164 of the Cr.p.c. is recorded. She produced that statement before the Court. It is a short statement and it corroborates her F.I.R. She submitted that, if the relief is granted to the applicant, some conditions be imposed on him.

5. Learned counsel for the applicant submitted that, from the F.I.R. itself it is quite clear that it is a consensual relationship

and, therefore, no offence punishable U/s.376 of the I.P.C. is made out.

6. I have considered these submissions. I have perused the F.I.R., as well as, the statement recorded U/s.164 of the Cr.p.c. From the F.I.R. itself it is quite clear that the relationship was consensual. The first informant was aware of the opposition of both the families. She was aware that the marriage was not taking place and yet she continued in the relationship. She admitted that, they were staying together in 'live in relationship'. Her pregnancy was terminated when she had consumed that tablet. At that time, no resistance was offered by her and no reluctance was shown by her. Taking over all view of the matter, it is apparent that it is a consensual relationship. Therefore, custodial interrogation of the applicant is not necessary. However, it is necessary to put some conditions on the applicant, so that, no harassment is caused to the first informant.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.406 of 2023 registered at Shahapur Police Station, Kolhapur, 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 22/01/2024 and 23/01/2024 between 1.00 p.m. to 4.00 p.m. and shall cooperate with the investigation. In addition, the applicant shall attend the concerned police station as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)