

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

ANTICIPATORY BAIL APPLICATION NO. 373 OF 2024

Abhishek Brijesh Singh

..Applicant

Versus

The State of Maharashtra

..Respondent

Ms. Anjali Patil for Applicant.

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

CORAM : SARANG V. KOTWAL, J.

DATE : 6 MARCH 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.38 of 2021 registered at Amboli Police Station, Mumbai, on 12.02.2021, under sections 376(2)(n), 420, 509, 379, 500, 506 and 506(II) of the Indian Penal Code.

2. Heard Ms. Anjali Patil, 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 on 12.02.2021. She has stated that she got in touch with the present applicant in the end of 2018 through a social networking site.

Slowly, their friendship started. In March 2019, they met at Andheri. The applicant took her to his friend's house. It is her case that the applicant gave her something to drink because of which she lost her senses and then the applicant established physical relations with her. It is further mentioned that, he told the informant that he was already married, but he was staying separately from his wife. After that, their friendship grew further and it turned into a love affair. The F.I.R. mentions that the applicant used to visit her place regularly and they had regular physical relationship. The F.I.R. thereafter mentions few other allegations about losing her mobile phone etc., but the main thrust of the allegations in the F.I.R. are about their physical relationship. She has stated that, there was a third lady who contacted the informant and told her that the applicant was having physical relations with her, as well. Thus, at the same time, the applicant was keeping relations with the informant and with that third lady. The victim confronted the applicant. He apologised. The informant forgave him and they continued with their physical relationship. This went on till November 2020. There are allegations that the

applicant had sent her an obscene photograph taken by him of the informant and based on that, he was pressurizing her. It is further alleged that the applicant had given her mobile phone number to many others because of which she used to receive indecent calls. Ultimately, the applicant did not get married with the informant. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the charge-sheet in this case is already filed. The F.I.R. was filed in 2021. Therefore, after the investigation was completed and after three years, in the background of the allegations, the applicant's custodial interrogation is not necessary. She relied on the statement of the friend of the applicant in respect of the first instance of their physical relations. She submitted that the said friend has denied that the informant was given something to drink because of which she had lost her senses. She submitted that the statement of the wife of the applicant also shows that the informant was knowing everything and had kept physical relations with the applicant with full awareness of the situation.

5. Learned APP submitted that the charge-sheet in this case is already filed because the applicant had attended the police station and had co-operated with the investigation. She relied on the allegations in the F.I.R.

6. I have considered these submissions. From the description in the F.I.R. itself it is clear that it was a consensual physical relationship between the informant and the applicant. The informant was aware of his marital status and also was aware about existence of a third lady in his life. In spite of that, she continued to have physical relations with the applicant. Therefore, there is substance in the submission that offence U/s.376(2)(n) of the I.P.C. is not made out. There is an allegation regarding the indecent photographs which the applicant had threatened to circulate. However, learned APP, on instructions and after going through the charge-sheet submitted that, there is no material to substantiate this allegation that the applicant had taken any steps in circulating these photographs. Therefore, even after their break up the applicant has not taken any steps to circulate the material which he had in his mobile phone. Considering all these aspects,

the applicant can be protected U/s.438 of the Cr.p.c.; with certain conditions.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.38 of 2021 registered at Amboli Police Station, Mumbai, 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 not cause any harassment to the first informant.
- iii) The Applicant shall not tamper with the evidence and the witnesses.
- iv) The Applicant shall attend all the dates in the Trial Court, unless prevented by a reasonable cause.
- v) The Application is disposed of.

(SARANG V. KOTWAL, J.)