

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 666 OF 2024

YUGANDHARA
SHARAD
PATIL

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Matin Ajij Khan Applicant

Versus
The State of Maharashtra and Anr. Respondents

Ms. Sana Raees Khan a/w Aditya Parmar, Ruchita Rajpurohit, for
the applicant.

Ms. Rajeshree V. Newton, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 8th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection
with C.R.No. 31 of 2024 registered at Lonavala Police Station,
Pune on 03/02/2024 under sections 328, 376, 376(2)(n) , 507 of
the Indian Penal Code.

2. Heard Ms. Khan , learned counsel for the applicant and
Ms. Newton, learned APP for the State.

3. The F.I.R. is lodged by the informant. She has stated
that she came in contact with the present Applicant through a

social networking site. They met for the first time in August 2023. It is her case that on 19/08/2023, they met at Lonavala in a Resort. It is mentioned in the FIR that the Applicant forced her to smell some substance because of which she lost her consciousness and at that time he had physical relations with her. After that he told her that he wanted to marry her. Thereafter, their physical relations continued. In August 2023, again it was repeated in a hotel in Pune. Again the Applicant told her that he would marry her. In September 2023, he had gone to Sangli to attend the informant's brother's wedding. That time he was supposed to talk with the informant's parents about their marriage but he did not tell them anything and left from Sangli. Thereafter, again in November 2023, he kept physical relations on the pretext that he would marry her. On 21/01/2024, they had gone to a lodge in Pune. At that time she asked him about their marriage. At that time, for the very first time, the Applicant told the informant that he was already married and had forced physical relations. The informant was arguing with him about their marriage. After that he went away. After sometime, when he called her, at that time

two ladies spoke from the other end. They abused and threatened her. She realised that she was cheated and was exploited. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that as per the FIR, the informant came to know about the fact of the Applicant being married on 21/01/2024 and the FIR is lodged on 03/02/2024. Therefore, there was delay in lodging the FIR. She submitted that the informant was aware of his marriage but she has not admitted that fact in her FIR. Learned counsel further submitted that there are messages showing that the informant was demanding money from the Applicant and on his refusal to make payment, this FIR is lodged.

5. Learned APP opposed these submissions, She relied on the statement of the informant recorded under Section 164 of Cr. P.C. She submitted that the consent for the physical relations was vitiated because it was obtained by fraud and misrepresentation. She submitted that therefore the offence under section 376(2)(n) is clearly made out. The offence is serious.

6. I have considered these submissions. The statement of the informant recorded under section 164 of Cr.P.C. is identical to her statement in the FIR. Thus her story is consistent. She had given her statement under section 164 of Cr.P.C. before the competent learned Magistrate. The description in the FIR clearly shows that the informant had consented to have physical relations only because the Applicant had promised to marry her, but he had suppressed the fact that he was already married. Learned APP on the instructions of IO submitted that the Applicant is a married man with two children. All these facts were suppressed by him from the informant. Therefore, it cannot be said that the consent given by the informant for having physical relations was a valid consent. It was obtained fraudulently. The Applicant has established physical relations on false promise of marriage which is clear from the FIR itself. Considering the gravity of the offence, the Applicant cannot be protected under section 438 of Cr.P.C. The Application is rejected.

(SARANG V. KOTWAL, J.)