

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

ANTICIPATORY BAIL APPLICATION NO.795 OF 2023

Pravin Baban Pansare

.... Applicant

versus

State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Pandit Kasar, Advocate for Applicant.
- Ms. Rajeshree V. Newton, APP for the State/Respondent.
- Mr. Sujeet Bugade, appointed Legal Aid Advocate, for Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 02nd APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.38/2023, dated 18/01/2023, registered with Dehu Road Police Station, Pimpri-Chinchwad, under sections 376, 376(2)(n), 465 of the Indian Penal Code.

2. Heard Mr. Pandit Kasar, learned counsel for the Applicant, Mr. Sujeet Bugade, learned counsel for the

Respondent and Ms. Rajeshree V. Newton, learned APP for the State.

3. The FIR is lodged by the victim herself. She has stated that she was knowing the Applicant since 12 years before registering the FIR. She has categorically stated that they had love affair since 12 years. In the meantime, the Applicant was married to another lady on 20/04/2011. For some period, there was no communication between the informant and the Applicant. In 2016, he met the informant at Pimple Gurav. He told her that he was regretting marrying his wife. He took the informant to meet his mother and told her that he wanted to stay with the informant. The Applicant used to go to the informant's parent's house and used to tell them that they should not look for any marriage proposal for the victim and he would marry her. In the meantime, the Applicant's wife came to know about the love affair between the informant and the Applicant. The FIR mentions that on 26/06/2019, the Applicant took the informant to Shivaji Nagar Court. They paid marriage registration fee. After that, there was a meeting between the two

families and it was decided that the Applicant and the informant would not meet each other. In 2021, the informant suffered from Covid. The Applicant spent all the expenditure for her treatment. In August 2021, the informant suffered from Thyroid issue. Even on that occasion, the Applicant took her to a Doctor. The Doctor advised them to have children because it would be late afterwards. The FIR goes on to mention that thereafter they had physical relations, though she claims that those were against her wish. She became pregnant. The Applicant did not marry her. It is her case that he told that he had sent a notice for divorce to his wife. But he did not take any steps in that behalf. He told her not to go ahead with the pregnancy. He used to threaten her. On this basis, the FIR was lodged when the informant was 8 months pregnant.

4. Learned counsel for the Applicant submitted that the FIR itself mentions that they were in relationship since past 12 years. Even the families knew about this. Therefore, it cannot be said that the Applicant had concealed anything from the informant or that it was not a consensual relationship.

5. Learned counsel for the first informant as well as learned APP submitted that the informant has delivered a child. But the Applicant is not looking after them. The subsequent conduct of the Applicant shows that he was never honest in his intention and the consent of the informant was obtained through deceit.

6. I have considered these submissions. As rightly submitted by the learned counsel for the Applicant, the narration in the FIR shows that it was a consensual relationship. They were in love since 12 years prior to the FIR. The FIR mentions the various occasions when the Applicant had taken care of the informant, when she was suffering from health issues. All these factors will have to be taken into consideration. In that case it is difficult to observe that the offences, as alleged in the FIR, are made out. As far as the informant and her child are concerned, they have their independent right which they can pursue in accordance with law in respect of maintenance, etc. In this case, the Applicant can be protected u/s 438 of Cr.PC.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.38/2023, dated 18/01/2023, registered with Dehu Road Police Station, Pimpri-Chinchwad, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)