

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

ANTICIPATORY BAIL APPLICATION NO.1029 OF 2024

Navnath Ramrao Wanjul Applicant

versus

The State of Maharashtra Respondent

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- Ms. Shraddha Sawant, Advocate for Applicant.
- Mr. Avinash A. Naik, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.49/2024, dated 04/03/2024, registered with Pimpalgaon Police Station, Nashik Rural, under sections 376 of the Indian Penal Code.

2. Heard Ms. Shraddha Sawant, learned counsel for the Applicant and Mr. Avinash A. Naik, learned APP for the State.

3. The FIR is lodged by the victim herself. She has stated

that she was married earlier and was divorced in the year 2020. She had two daughters. They were residing with her first husband. She herself was working in a social organization. In December 2023, the Applicant contacted her through a social networking site through a friend request. Both of them got in touch with each other on the said site. They exchanged their phone numbers. They met each other on 29/12/2023. At that time, the Applicant told her that he was divorced from first wife and he was in the process of getting divorce from his second wife. He proposed marriage to her, but she refused. It is alleged that on 31/12/2023, the Applicant took her to a resort. He told her that he would marry her and established forcible physical relations with her. Thereafter again they went to another hotel at Pimpalgaon and again had physical relations. It is alleged that from December 2023 upto February 2024 they had frequent physical relations against her wish on the promise of marriage. The informant lodged her FIR on these allegations.

4. Learned counsel for the Applicant invited my attention to the previous FIR lodged by the same informant on

02/08/2021 at Mumabi Naka police station vide C.R.No.169/2021, in which she had made similar allegations against another person, who interestingly was mentioned as her husband in the present FIR against the present Applicant. She submitted that the allegations in the FIR indicate that it was a consensual relation. Learned counsel relied on the messages exchanged between the informant and the Applicant showing that the informant had willingly accompanied the Applicant to the said resort. She submitted that considering all this background, no offence is made out. The informant was aware that the Applicant was already married.

5. Learned APP opposed the investigation papers before me. He submitted that the informant's statement u/s 164 of Cr.PC. is recorded.
6. I have considered these submissions. There are many details mentioned in the statement recorded u/s 164 of Cr.PC. All these additions and improvements are absent in the FIR lodged by the first informant.

7. The description in the FIR shows that it was a consensual relationship, though she has stated that the physical relations were established against her wish. She had willingly accompanied with the Applicant at different resorts and lodges. The messages exchanged between them also show that there was a consensual relationship. Earlier similar FIR was lodged by the informant against another person, who significantly is described as her husband in the present FIR.

8. Considering all these aspects, sufficient doubt is created about her case. Therefore, the Applicant's custodial interrogation is not justified. He can be protected u/s 438 of Cr.PC. It is made clear that all these observations are made only for the purpose of passing of this order.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.49/2024, dated 04/03/2024, registered

with Pimpalgaon Police Station, Nashik Rural, 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 Applicant shall cooperate with the investigation.
- (iii) The application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)