



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

CRIMINAL APPEAL NO.838 OF 2023

Nilesh Gorakhnath Karande ..Appellant
VS.
The State of Maharashtra and anr. ..Respondents

Mr. Purushottam G. Chavan a/w Mr. Sachin S. Padaye, for the appellant.

Ms. S. D. Shinde, APP for the State.

Mr. Harekrishna Mishra, for Complainant.

PC-Mr. D.R. More, Tardeo Div. Office present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 17, 2024

P.C. :

1. Heard learned counsel for the appellant, learned APP and learned counsel for the complainant.
2. This is an appeal for quashing and setting aside the impugned order dated 17/07/2023 passed by the trial Court rejecting the anticipatory bail application filed by the appellant in connection with C.R. No. 367 of 2022 dated 12/07/2022 registered with Nagpada police station for the offences punishable under sections 376, 376(2)(n) and 417 of the Indian Penal Code, 1860. The FIR is lodged by the prosecutrix on 12/07/2022. The prosecutrix alleged that she

met the appellant on the website 'Shadi.com'. The appellant and the prosecutrix started interacting with each other. Sometime on 18/03/2022, the appellant and the prosecutrix met each other for the first time in person. They proceeded to Goa. The allegation is that the appellant induced the prosecutrix to accompany him as in any case they would be getting married soon. It is alleged that on the promise of marriage, the couple had physical sexual relations on some occasions. The prosecutrix conceived in the meantime. The appellant thereafter avoided speaking to the prosecutrix. The prosecutrix therefore visited his place of work in Assam sometime on 19/06/2022 when she was informed that the appellant had gone to his native place where he was to get married. When the prosecutrix succeeded in confronting the appellant she was shocked to realise that the appellant had solemnised his marriage.

3. Learned counsel for the appellant submitted that the relations are consensual in nature. It is further submitted that the question whether the physical relations is on account of false promise of marriage on the part of the appellant can be decided at the time of trial. It is further

submitted that there is delay in registering the FIR. It is also submitted that even after the registration of FIR, there are whats-app chats which would indicate that the relationship is consensual in nature.

4. Learned APP opposed the appeal and submitted that the appeal deserves to be rejected. She further submits that the investigation is complete.

5. The statement of the appellant's sister would reveal that the appellant's marriage was already fixed during the period March-April 2022 when he had visited his parental home. The appellant was interacting with the complainant in March 2022 and even when the couple met for the first time, the appellant appears to be aware that he was shortly to visit his parental home to finalise the proposal which fructified in marriage. This fact was not informed by the appellant to the prosecutrix at any point of time during this period. The prosecutrix has stated that the appellant was promising marriage with her as a result of which she consented for such physical relationship. The appellant had met the prosecutrix on the site 'Shadi.com'.

6. In my opinion, in the facts and circumstances of the

present case, though the investigation is complete, the appeal for pre-arrest bail deserves to be dismissed and is accordingly dismissed. The appellant to surrender on or before 02/02/2024. The appellant may apply for regular bail.

(M. S. KARNIK, J.)