

ANTICIPATORY BAIL APPLICATION NO.1 OF 2024
WITH
INTERIM APPLICATION NO.3062 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.1 OF 2024

Iqramuddin Naseem Ahmed Idrisi Applicant
versus
State of Maharashtra & Anr. Respondents

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- Mr. Viral Rathod a/w Vishwatej Jadhav, Advocate for Applicant.
- Smt. Manisha R. Tidke, APP for the State/Respondent.
- Mr. Anil S. Kharatmol, Advocate for Intervenor.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th SEPTEMBER, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.987/2023, dated 20/12/2023, registered with Dharavi Police Station, Mumbai, under sections 376(2)(n), 417, 504, 506 of the Indian Penal Code.
2. Heard Mr. Viral Rathod, learned counsel for the Applicant, Mr. Anil S. Kharatmol, learned counsel for the Intervenor/Respondent No.2 and Smt. Manisha R. Tidke, learned APP for the State.

3. The FIR is lodged by the victim herself. She was 22 years of age at the time of lodging of the FIR. The Applicant was of around the same age. Both of them were neighbours and their families were on good terms with each other. In September 2021, the Informant was alone in the house. The Applicant met her and requested her to help him with cooking as his mother was admitted to hospital and there was no one else in the house. When the victim went to his house, he demanded to keep physical relations with her. She refused and told him that they could consider about it after their marriage. But the Applicant allegedly did not listen to her request and established forcible physical relations with her. The FIR thereafter mentions that the Applicant promised to marry her. They had regular meetings at different places after that. The FIR mentions that they had gone to a lodge at Kurla. There they had their physical relations, though she claims that it was against her wish and it was forcible. In October 2021, they had their physical relations in her own house. He gave her a pill to prevent pregnancy. On 15/01/2023, they had gone to a lodge in Chembur and had

their physical relations. After that, the Applicant did not take any steps towards getting married with the informant and went on promising about the marriage. It is alleged that the Applicant claimed that he had a video recording, which he threatened to make viral. According to the victim, she therefore did not make any complaint before anybody. In October 2023, the informant told about this to her sister and her friend. Both of them called the Applicant to Sion Railway Station. The Applicant refused to marry her. Ultimately, the informant lodged her FIR on 20/12/2023.

4. Learned counsel for the Applicant submitted that from the bare perusal of the FIR, it is quite clear that it was a consensual physical relationship. It went on for about two years. During that period, the informant was aware that the Applicant was not taking any steps towards marriage. In spite of that, the physical relations continued. Therefore, it cannot be said that the physical relations were against the wish of the informant; though she claims that on every occasion, the physical relations were kept forcibly. He submitted that the last time, those

relations were kept was in January 2023. Even thereafter, there was no complaint against the Applicant. There is a reference to a meeting at Sion Railway Station in October 2023. But even thereafter, no complaint was filed. Ultimately, the FIR was lodged in December 2023. Thus, there is unexplained delay of almost 11 months in lodging the FIR. He submitted that considering this background and the consensual relationship, no offence is made out and therefore the Applicant may not be arrested.

5. Learned counsel for the first informant submitted that the physical relations were the result of false promise of marriage. Therefore, the consent is vitiated. In any case, it is the case of the informant that on every occasion, the relations were kept forcibly against her wish. He submitted that even after the Applicant was granted ad-interim relief, he tried to pressurize the victim.

6. Learned APP submitted that after the ad-interim was granted to the Applicant, he had attended the police station and

cooperated with the investigation. The Applicant's mobile phone was seized and at present it is sent for FSL examination.

7. I have considered these submissions. I find substance in the aforesaid submissions of learned counsel for the Applicant, that it was a consensual relationship kept for about two years. During all this period, the Applicant had not taken any steps towards getting married. The family of the victim and that of the Applicant's were known to each other. Therefore, there was scope to believe that the informant was aware that the marriage was not taking place. In spite of that, physical relations were kept. In addition, there was delay of almost 11 months in lodging the FIR from the last incident of their physical relations.

8. As submitted by learned counsel for the Applicant, the Applicant has attended the police station and has cooperated with the investigation. Considering all these aspects, the Applicant can be protected u/s 438 of Cr.P.C. However, the apprehension expressed by the informant also needs to be taken care of by imposing certain conditions. It is made clear that the

observations made in this application are restricted to passing of this order. The Trial Court shall not be influenced by these observations while conducting the trial.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.987/2023, dated 20/12/2023, registered with Dharavi Police Station, Mumbai, 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 continue to cooperate with the investigation and shall attend the concerned Police Station as and when called.
- (iii) The Applicant shall not cause any harassment in any manner to the victim or her family.
- (iv) The Anticipatory Bail Application as well as the Interim Application stand disposed of accordingly.

(SARANG V. KOTWAL, J.)