

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

ANTICIPATORY BAIL APPLICATION NO.26 OF 2024

Rohit Ashok Sabanvar

.... Applicant

Versus

The State of Maharashtra
and another

.... Respondents

Mr. Abhishek Yende, Advocate a/w. Yash Dinde, Sanjukta Dey
i/b. Yende Legal Associates for the Applicant.

Mr. S.H. Yadav, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 01st AUGUST, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.925/2023 dated 3.11.2023 registered at Baramati City Police Station, Pune Rural under sections 376, 377 and 506 of IPC.

2. Heard Mr. Abhishek Yende, learned counsel for the Applicant and Mr. S.H. Yadav, learned APP for the Respondent-State.

3. The FIR is lodged by the informant herself, who was 35 years of age. She has stated that in the year 2022 she

got acquainted with the Applicant. Then their acquaintance turned into love relationship. The FIR goes on to mention various instances when both of them had physical relations. The informant has stated that on the first occasion, the Applicant had given her something to drink and under that state, for the first time the physical relations were kept. Subsequently, those physical relations continued at various places on various occasions. After some time, the Applicant stopped contacting her and severed all their relations. After that, this FIR is lodged.

4. On the last occasion, I had issued notice to the first informant. The office noting shows that the first informant–Respondent No.2 is served. Learned APP, on instructions, also states that the Respondent No.2 is served. However, she had not made any arrangement by engaging any Advocate and she has not sought assistance of Legal Aid Counsel. Since the service is complete, I have proceeded to hear this Application.

5. Learned counsel for the Applicant submitted that the FIR itself mentions that the informant was aware that the Applicant was married. The informant herself was a married lady. The relationship continued on many occasions at different places. The informant had stayed in the Applicant's flat when his wife had gone to her parents' house. And, therefore, it was a consensual relationship.

6. On the previous occasion, learned APP on instructions, had stated that the investigating agency did not want custody of the Applicant for the investigation purposes. Even today learned APP, on instructions, states that the investigating agency does not want to arrest the Applicant for the investigation purposes. The statement is recorded.

7. Considering these circumstances, I find force in the submission of learned counsel for the Applicant that it was a consensual relationship. The informant was aware that the Applicant was married. She herself was a married lady. The physical relations were continued for a considerable period and at different places.

8. In this view of the matter, the Applicant can be protected under Section 438 of Cr.P.C. It is made clear that these observations are made only for the purpose of deciding this Application. The Applicant shall cooperate with the investigation.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.925/2023 registered at Baramati City Police Station, Pune 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 Applicant shall not tamper with the evidence and witnesses.
- (iv) The Applicant shall not harass the first informant in any manner.
- (v) The Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)