

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

ANTICIPATORY BAIL APPLICATION NO.83 OF 2024

Hitesh Mahesh Thakur ..Applicant
Versus
The State of Maharashtra ..Respondent

**WITH
INTERIM APPLICATION NO.989 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.83 OF 2024**

ABC ..Intervenor

IN THE MATTER BETWEEN

Hitesh Mahesh Thakur ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Niranjan Mundargi a/w Keral Mehta, Harshman Chavan i/by
Ashley Cusher, for the Applicant.
Mr. Vinit A. Kulkarni, APP for the Respondent/State.
Ms. Shaba N. Khan, for the Respondent No.2/Intervenor.
Mr. J. H. Tamboli, PSI, Virar Police Station, Palghar – present.

CORAM : SARANG V. KOTWAL, J.

DATE : 22nd AUGUST, 2024

P C.

1. The Applicant is seeking anticipatory bail in connection with C. R. No.1149 of 2023 registered with Virar Police Station for the offence under Sections 376, 376(2)(n), 323, 504 and 506 of IPC.

2. Heard learned counsel for the Applicant, learned APP and learned counsel for the Respondent No.2.

3. The FIR is lodged by the victim herself. She has stated that she was 33 years of age at the time of lodging of the FIR. She was a married lady. Even the Applicant was married. There are references in the FIR, which show that the informant was aware that the Applicant was married. She has described that since January, 2023, they came in contact with each other. The FIR mentions multiple occasions and multiple places where they had their physical relations. The first informant has stated that at the first instance, she was given something to drink, because of which, she was not conscious and at that time, the Applicant established physical relations with her. On all the other occasions, he committed similar acts on threats and blackmailing her. On this basis, the FIR was lodged.

4. Learned counsel for the Applicant submitted that the description in the FIR shows that all the instances mentioned in the FIR are highly improbable. There are messages exchanged between the parties, which show that they were having love relationship and it was purely consensual relationship. Learned counsel for the Applicant relied on the messages sent by the informant to the Applicant, which are annexed from page Nos.49 to 78 in this Application. The informant herself was a married lady. Though it is her case that the physical relations were kept under threat, the

messages sent by her suggest otherwise.

5. On the last occasion, the Applicant was protected by way of ad-interim order.

6. Learned counsel for the Respondent No.2 submitted that the Applicant is in possession of some video and he has to produce them before the Investigating Agency.

7. Learned APP on the other hand on instructions of the Investigating Officer stated that the charge-sheet in this case is already filed and the Investigating Agency does not want the custody of the Applicant for the investigation purpose.

8. I have considered these submissions and find force in the submissions of learned counsel for the Applicant that it was a consensual relationship. The charge-sheet is already filed and the Investigating Agency does not want the custody of the Applicant, therefore, he can be protected under Section 438 of the CrPC on certain conditions. It is made clear that these observations are made only for the purpose of deciding of this Application. Hence, the following order :-

ORDER

- (a) In the event of his arrest in connection with C. R. No.1149 of 2023 registered with Virar Police Station, the Applicant is directed to be released on bail on his executing PR bond

(11) -ABA-83-24.doc.

of Rs.30,000/- with one or two sureties in the like amount.

- (b) The Applicant shall not cause any harassment to the first informant or her family.
- (c) The Application is disposed of.
- (d) The Intervention Application is also disposed of.

(SARANG V. KOTWAL, J.)