

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

ANTICIPATORY BAIL APPLICATION NO.148 OF 2024

Vishal Hasmukh GandhiApplicant
Versus
State of Maharashtra & Anr. Respondents

Mr. Vaibhav Bagade, Advocate a/w. S.U. Pawar, Aman Kothari, G.K. Kalekar for the Applicant.

Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

Mr. Pravin J. Tekale, Advocate a/w. S.R. Chowdhary for the orig. complainant.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.1615/2023 registered with Malvani Police Station, Mumbai on 22.12.2023 under Sections 376(2)(n), 420, 406, 323 of IPC.

2. Heard Shri Vaibhav Bagade, learned counsel for the Applicant, Ms. Mahalakshmi Ganapathy, learned APP for the Respondent No.1-State and Mr. Pravin Tekale, learned counsel for the orig. complainant.

3. The first informant appears through a counsel. Her counsel states that she wants to file intervention application and an adjournment is sought on that ground.

4. Considering this request, today I am adjourning the matter and I have heard the parties for consideration of the ad-interim relief.

5. The FIR is lodged by the first informant on 22.12.2023. She was about 48 years of age. She had lost her husband in the year 2005. The Applicant has got divorce from his wife. Therefore, he was also alone. In December, 2017, the Applicant proposed love to her. She accepted it and since then they were in a relationship. It is her case that on the first occasion, there was physical relations without her will but subsequently they continued with their physical relations and started living-in together. They resided at different places. It is her case that on certain pretext the Applicant obtained her ornaments and misappropriated the amount of Rs.17,50,000/-. Ultimately

she came to know that he married another lady. After that this FIR is lodged.

6. Learned counsel for the Applicant submitted that, from the FIR itself it is quite clear that it was a consensual physical relationship and, therefore, no offence under Section 376(2)(n) of IPC is made out. He submitted that the Applicant has transferred more than Rs.21 Lakhs in the accounts of the family members of the first informant and, therefore, there is no substance in the allegations of misappropriation of more than Rs.17 Lakhs.

7. Learned APP submitted that the Applicant will have to establish this defence by providing documents and for that purpose he will have to attend the police station and cooperate with the investigation.

8. Considering these submissions, the Applicant can be protected by way of ad-interim relief with directions to attend the concerned police station.

9. Hence, the following order:

ORDER

- (i) In the event of his arrest in connection with C.R.No.1615/2023 registered with Malvani Police Station, Mumbai, till the next date, the Applicant be released on bail on his executing a P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) This order shall operate till 27.2.2024.
- (iii) The Applicant shall attend the concerned Police Station on 5.2.2024, 6.2.2024 and 7.2.2024 between 1:00 p.m. to 5:00 p.m. and thereafter as and when called. The Applicant shall cooperate with the investigation.
- (iv) Stand over to 27.2.2024.

(SARANG V. KOTWAL, J.)