

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

ANTICIPATORY BAIL APPLICATION NO.814 OF 2024

Rahul Paliwal Rakesh Paliwal	Applicant
Versus	
State of Maharashtra & Anr.	 Respondents

Mr. Vaibhav S. Kulkarni, Advocate for the Applicant.
Mr. Nitin B. Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th MARCH, 2024

PC. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.130/2024 registered with Bangur Nagar Police Station, Mumbai on 14.2.2024 under Sections 376(2)(n), 509, 323, 504, 506 read with 34 of IPC.

2. Heard Mr. Vaibhav Kulkarni, learned counsel for the Applicant and Mr. Nitin Patil, learned APP for the Respondent-State.

3. Learned APP is seeking time as the investigating officer is not present. Therefore, I have heard the parties for consideration of ad-interim relief.

4. The FIR is lodged by the wife of the Applicant. She has stated that she got acquainted with the Applicant in the year 2016. They were in friendly relationship for a couple of years. The informant suggested to him that they should get married. The Applicant sought some time. In 2019, they stopped communicating. In 2021, the Applicant's father, uncle and brother came to the informant's house and told her that the Applicant was earning sufficiently and that they should get married. On 3.5.2022, they got engaged and on 25.2.2023 the informant got married with the Applicant. It is mentioned in the FIR that after marriage she went to reside with the Applicant's family at Aligarh, Uttar Pradesh. It was a joint family. On 1.3.2023, out of some family quarrel the Applicant abused and beat her. In April, 2023 she was forced by the Applicant to have physical relations with his brother. It is her case that the Applicant's brother used to frequently establish

physical relations with her. At the end of April, 2023, the Applicant's brother left for Gujarat. Thereafter, the Applicant used to have physical relations with her. In May, 2023 he forced the informant to have physical relations with his father. The Applicant's father also established physical relations frequently with the informant. That went on till September, 2023. In September, 2023, the informant went to Mumbai in connection with a project. She did not return back. Therefore, the Applicant came to Mumbai in October to take her back but she refused. He threatened her and took away Rs.5 Lakhs and some gold ornaments. In December, 2023 the Applicant's father and brother came to Mumbai to take her back. It is her case that even on that occasion the Applicant's father had forcible physical relations with her. In December, 2023 the informant went to her matrimonial house at Uttar Pradesh. It is alleged that the Applicant kept forcible physical relations with her. In January, 2024 the informant left their house and went to Lucknow to her aunt's place and then came to Mumbai. After that, this FIR is lodged,

5. Learned counsel for the Applicant submitted that mere reading of the FIR shows that it is impossible that these allegations could be true. The occurrence of the incidents is highly unbelievable. The informant is an educated lady and she could not have suffered all this trauma if the incidents were really true. It is impossible that the Applicant's father would come to Mumbai to the informant's place and could establish forcible physical relations with her. Apart from the improbability of the allegations, learned counsel relied on certain messages and photographs annexed to this application. They were in respect of the months of April, May, October and December, 2023 i.e. even after the alleged incidents have taken place. These photographs and messages show their normal relations and those are against the allegations made by the informant in her FIR.

6. I find substance in the submissions of learned counsel for the Applicant for the purpose of considering the ad-interim relief. At this stage, it is not proper to observe anything more because the investigating officer will have to

respond to these submissions. Since the first informant had appeared before the Court of Session, I am inclined to issue notice to her as well.

7. Hence, the following order:

ORDER

- (i) Issue notice to the Respondent No.2, returnable on 30.4.2024.
- (ii) In the event of his arrest in connection with C.R.No.130/2024 registered with Bangur Nagar Police Station, Mumbai, till the next date, the Applicant be released on bail on his executing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (iii) This order shall operate till 30.4.2024.
- (iv) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (v) Stand over to 30.4.2024

(SARANG V. KOTWAL, J.)