

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

ANTICIPATORY BAIL APPLICATION NO. 814 OF 2024

Rahul Paliwal S/o Rakesh Paliwal	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

**WITH
INTERIM APPLICATION NO. 2026 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 814 OF 2024**

A.B.C.	..Intervenor
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In the matter between:

Rahul Paliwal S/o Rakesh Paliwal	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

Mr. Vaibhav Kulkarni for Applicant.
Mr. Abhaykumar Apte, for Respondent No.2/Intervenor.
Mr. Swapnil V. Walve, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 29 AUGUST 2024**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.130 of 2024 registered at Bangar Nagar Police Station, Mumbai, on 14.02.2024, under sections 376(2)(n), 509,

323, 504 and 506 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Vaibhav Kulkarni, learned counsel for the applicant, Mr. Abhaykumar Apte, learned counsel for the Intervenor and Mr. Swapnil Walve, learned APP for the State.

3. The F.I.R. is lodged by the victim herself. She has stated that, she was a resident of Mumbai. She was residing with her mother and sister. She was working in a reputed company. In April 2016, her neighbour introduced her to the applicant. The F.I.R. mentions that, for about two and half years the informant and the applicant were in friendly relations. According to her, she was suggesting him to get married, but he was avoiding the subject. In 2021, the applicant's father, uncle and applicant's brother approached the informant's family and suggested that, since the Applicant was earning satisfactorily, they could go ahead with the marriage. Accordingly, they got married on 25.02.2023. After the marriage, the informant started residing at the applicant's house at Aligarh, Uttar Pradesh. There were two houses. The informant, applicant and his brother were residing in one house

and the applicant's parents were residing in the other house. It is alleged that, in April 2023, the applicant forced the informant to keep physical relations with his brother. This happened on more than one occasions. In April 2023, the Applicant's brother went to Gujarat in connection with his job. After that the applicant used to establish forcible physical relations with the informant against her wish. In May 2023, the applicant forced the informant to keep physical relations with his father. This went on till September 2023.

4. On 11.09.2023, the informant came to Mumbai in connection with her project and stayed with her mother. The applicant came to take her back on 23.10.2023. She refused. The applicant threatened her and took away gold ornaments and Rs.5 lakhs in cash. In December 2023, the applicant's father and brother came to Mumbai to take her back. Both of them threatened her. It is alleged by her that, even on this occasion, the Applicant's father established forcible physical relations with her. It is her case that, getting scared, she accompanied them to their house in Uttar Pradesh in December 2023. She has further alleged that, she was

not allowed to go out of the house and the applicant used to have forcible physical relations with her. On 12.01.2024, she left their house and went to her Aunt's house at Lucknow and then came back to Mumbai. She blocked the contact numbers of the applicant and his family, and ultimately, lodged her F.I.R. on 14.02.2024.

5. Learned counsel for the applicant submitted that the allegations in the F.I.R. are absolutely false. The alleged incidents are not only improbable but they are impossible. The informant was an educated lady, employed with a good company and, therefore, she was not helpless. It was not possible that, she would have kept quiet for about 7 to 8 months if the incidents were true. Learned counsel invited my attention to an MOU executed on 11.12.2023 whereby the brother of the applicant was to purchase a premises at Goregaon, Mumbai from the original flat owner. He submitted that the father and brother of the applicant had come to Mumbai in connection with purchasing that flat. The family was trying to get a premises in Mumbai since past few months before December 2023, which is reflected in the messages exchanged between the informant and the applicant. He relied on the

photographs attached to this application from Page No. 172 onwards. He also relied on the messages exchanged between the informant and the applicant which are annexed at Page No.162 onwards. He, therefore, submitted that, these messages and the photographs show that the relations between the informant and the applicant and his family were absolutely normal. He submitted that, if there was even an iota of truth in the allegations, all these messages could not have been exchanged and all those photographs were not possible. The charge-sheet is filed and, therefore, the applicant deserves protection of anticipatory bail order.

6. Learned APP, as well as, learned counsel for the Respondent No.2 opposed these submissions. They relied on the charge-sheet and the statements of the witnesses including the supplementary statement of the first informant, to oppose this application. Shri. Apte, learned counsel appearing for the Respondent No.2 submitted that, those messages and those photographs showing normal relations were possible since the informant could have tried to compromise the matter with the

applicant's family for the sake of her marriage. Therefore, she could have sent those messages and she could be seen cordial in the photographs to show her efforts to save her marriage. He submitted that the allegations are very serious and, therefore, anticipatory bail should not be granted to the applicant.

7. I have considered these submissions and I have perused the charge-sheet. I have read the messages exchanged between the informant and the applicant and I have seen the photographs. Undoubtedly, the allegations are very serious. The question is, whether they are probable in the backdrop of the messages and photographs annexed to this application. There are certain other statements in the charge-sheet viz. statements of the neighbours, the victim's mother and her Aunt. The statements of the neighbours of the informant mention that, in December 2023 the father and brother of the applicant were seen staying with the informant. Whenever the father of the Applicant used to go out, he was seen carrying something inside his shirt which could be some firearm.

These statements of the neighbours are quite vague. They are recorded in March 2024. The informant's mother's statement repeats the allegations made by the informant in her F.I.R. She has not said anything throwing any light on the incidents which had taken place in December 2023. She would have been in a position to describe the events which had taken place in her house. But her statement does not independently corroborate the first informant's allegations.

8. Most importantly, the messages exchanged between the informant and the applicant annexed to this application make the allegations doubtful. The messages and the photographs are upto December 2023. All these messages and photographs show that the relations between the informant on one hand and the applicant and his family on the other hand were absolutely normal. There were some love messages exchanged between the informant and the applicant. The messages exchanged on 11.12.2023 between the informant and the brother of the Applicant also show that she had no grievance against the brother of the Applicant. All these photographs and messages are

pertaining to the instances after April 2023. It is quite important. All these photographs and messages, in fact, show that the informant's allegations could not be true. The investigating agency has not made any submissions in respect of these photographs and messages. It is difficult to accept Mr. Apte's submission that, the informant could have tried to save her marriage and, therefore, these messages were sent and the photographs were taken. They showed absolutely normal relationship between the parties. In this view of the matter, I find force in the submissions of learned counsel for the applicant that the allegations may not be true. In this background, the applicant has made out a case for grant of anticipatory bail order. It is made clear that all these observations are made only for the purpose of deciding this application. The Trial Court shall not be influenced by these observations.

9. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.130 of 2024 registered at Bangar Nagar Police Station, Mumbai, the applicant is directed

to 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.

- ii) The Applicant shall not try to contact the informant or her family and shall not tamper with the evidence in any manner.
- iii) The Application is disposed of.
- iv) With disposal of anticipatory bail application, the interim application is also disposed of.

(SARANG V. KOTWAL, J.)