

[Corrected in bold vide speaking to the minutes order dated 01.10.2024]

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

Anticipatory Bail Application No.1477 of 2024

Saras Kumar Churiwal
Adult Indian Inhabitant,
Aged about 36 years,
R/at: Flat No.406, Tower 2,
Acme Oasis, Akurli Road,
Near Mahindra Yellow Gate,
Kandivali (E), Mumbai – 400101

... Applicant

Versus

1. The State of Maharashtra
Through Inspector Incharge,
Malwani Police Station,
To be served through Public
Prosecutor, High Court (AS),
Mumbai.
2. XYZ
Age – 41 years
To be served through Inspector
Incharge, Malwani Police Station,
Mumbai

... Respondent

Mr Ashok Saraogi, along with Mr Sushil Upadhyay, for the applicant.

Ms Supriya Kak, APP, for the respondent/ State.

Mr Nitesh J Mohite, Legal Aid Advocate for Respondent No.2.

PSI MA Devarshi, Malvani Police Station, Mumbai, is present.

**Coram: R. N. Laddha, J.
Date: 25 September 2024.**

P.C.:

The applicant, accused of committing the offence punishable under Section 376(2)(n) of the Indian Penal Code, bearing CR No.584 of 2024, registered at Malvani Police Station, Mumbai, has approached this Court seeking bail in anticipation of arrest.

2. The prosecution claims that in January 2024, the prosecutrix and the applicant met through a matrimonial site. Under the guise of marriage, the applicant engaged in physical relations with the prosecutrix from January 2024 to March 2024. However, the applicant did not keep his promise, prompting the prosecutrix to file the present FIR.

3. Mr Ashok Saraogi, the learned Counsel appearing on behalf of the applicant, argues that both the applicant and the prosecutrix are adults of legal age who willingly entered into a consensual relationship. The applicant, a widower, is the father of a 4-year-old child whose mother tragically passed away from cancer. Additionally, on 14 April 2024, the applicant lodged a formal complaint against the prosecutrix, citing her persistent threats of self-harm and harassment. Mr Saraogi further asserts that the applicant has been granted interim protection since May 2024. Throughout this period, the applicant has consistently reported to the police station and fully cooperated with the

investigation, which has now concluded. Given that no further items are to be recovered or discovered, the learned Counsel submits that the applicant's custody is unwarranted. The applicant is also prepared to comply with any conditions the Court imposes.

4. At the outset, Ms Supriya Kak, the learned Additional Public Prosecution representing the respondent/ State, on instructions from the investigating officer present in the Court, confirms that the applicant has duly attended the police station and has fully cooperated with the investigation. The learned APP further submits that the investigation has reached its conclusion, and a charge sheet is expected to be filed within the next week. Given this development, the prosecution does not seek the applicant's custody. Consequently, the prosecution has no objection to the applicant being granted anticipatory bail, provided it is under appropriate conditions.

5. After perusing the records, it appears that both the applicant and the prosecutrix are of legal age and were engaged in a consensual relationship. Their relationship spanned from January 2024 to March 2024. However, the relationship deteriorated, leading to the filing of the present FIR. Despite the lodging of the FIR, the parties continued to exchange messages. The applicant has cooperated with the investigation. With the investigation now

complete and no requirement of further recovery or discovery from the applicant, the learned APP fairly acknowledges that the custodial interrogation of the applicant is unnecessary. Furthermore, the prosecution intends to file a charge sheet shortly. Given these circumstances, this Court is inclined to exercise its discretion in favour of the applicants. Hence, the following order:

ORDER

(i) The interim protection granted by this Court on 28 May 2024 stands confirmed on the same terms and conditions.

(ii) The applicant shall attend the concerned Police Station as and when required till the filing of the charge sheet.

(iii) The applicant, himself or through any other person, shall not indulge in any activity that may tamper with the evidence or influence the witnesses.

6. The application stands disposed of accordingly.

(R. N. Laddha, J.)