

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

Anticipatory Bail Application No. 1721 of 2024

Huzaita Jiva Amaliyasana
37 years, Occ. Service,
R/o. Room No.2, Adarsh Chawl,
Khajurwadi, Gandhi Nagar Station
Road, Jogeshwari Railway Station,
Jogeshwari (West), Mumbai 400 102.

...Applicant

Vs.

1. The State of Maharashtra
At the instance of Sr. Inspector of Police,
Goregaon Police Station vide their
FIR No.350 of 2024.

2. XYZ

Age 30 years,
(Through Goregaon Police Station)

...Respondents

Mr. Ayush Pasbola a/w. Mr. Sankalp Vichare a/w. Mr. Swaraj Sable and
Mr. Sudhir Bhardwaj, for the Applicant.

Mr. M. G. Patil, APP for the Respondent No.1 – State.

Mr. Jugal Kanani, for the Respondent No.2.

PI Madhusudan Naik, Goregaon Police Station Mumbai is present.

Coram: R. N. Laddha, J.

Date: 5 September 2024

P.C.

Heard Mr Ayush Pasbola, the learned counsel for the applicant,
Mr. M. G. Patil, the learned Additional Public Prosecutor, representing
the respondent No.1 / State and Mr. Jugal Kanani, the learned counsel
appearing on behalf of respondent No.2.

2. This is an application for pre-arrest bail filed by the applicant,

apprehending arrest in CR No.350 of 2024, registered at Goregaon Police Station, Mumbai, for offences punishable under Sections 376 (2) (n) and 506 of the Indian Penal Code.

3. According to the First Information Report, the applicant met the informant on 8 March 2022, and they fell in love. Under the pretext of marriage the applicant engaged in a physical relationship with her. However, the victim later discovered that the applicant had been married twice to other women.

4. Mr Ayush Pasbola, the learned Counsel for the applicant, submits that the relationship between the victim and the applicant was consensual, with both parties being of legal age. The learned Counsel invited the attention of this Court to the WhatsApp conversations between the applicant and the victim, asserting that the applicant never misled the victim and had disclosed his previous marriage. The applicant is willing to cooperate with the investigation, including undergoing a medical examination.

5. On the other hand, Mr MG Patil, the learned APP, submits that the applicant engaged in sexual relations with the victim under the guise of marriage. Later, the victim discovered the applicant's prior marriage, which had not been disclosed to her. The offence is serious. However, the learned APP, following instructions, acknowledges that the investigation is almost complete and there is nothing to be recovered from the applicant.

6. This Court has considered the material on record in light of the rival submissions. The FIR provides a comprehensive account of the alleged incident. It appears that the relationship between the applicant and the victim persisted from 15 August 2022 to 30 April 2024. The FIR was filed on 3 May 2024, after the applicant did not respond to the victim's call. The relationship seems to have been consensual, with both parties being adults of legal age. Even after learning about the previous marriage of the applicant, the victim continued to engage in a sexual relationship with the applicant. The informant's primary grievance appears to be that the applicant abruptly ceased the communication with her, causing her mental distress. The applicant has attended the police station and cooperated with the investigation and nothing remains to be recovered or discovered from the applicant. The applicant is ready to cooperate with the investigation, including undergoing a medical examination. Moreover, the applicant has no criminal antecedents.

7. In the circumstances, the Court finds no reason to deny bail to the applicant in anticipation of his arrest. Accordingly, the application is allowed in the following terms :

- (i) In the event of the applicant's arrest in connection with C.R. No.350 of 2024, registered at Goregaon Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned Police Station on 19 and 20 September 2024, between 11:00 a.m. and 2:00 p.m. and cooperate with the investigation, including undergoing his medical examination.

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

8. The application stands disposed of accordingly.

[R. N. Laddha, J.]