

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

Anticipatory Bail Application No. 2098 of 2024

Omkar Kiran Chonkar

Aged 29 years, Occ. Gym Trainer,
R/at. Room No.503, Bldg. No.19/A,
Sarvoday CHS, Bimbisar Nagar,
Near Western Express Highway,
Goregaon (East), Mumbai – 400 065.

...Applicant

Vs.

1. The State of Maharashtra
(Through Powai Police Station, bearing
C.R. No.552 of 2024)

2. X.Y.Z.

(D.P. Road No.9, Rambaug,
Chandivali, Powai, Mumbai,
Maharashtra – 400 076).

...Respondents

Mr Ashok Saraogi a/w Mr Siddharth Jaiswal, Mr Aditya Sharma, Mr Sagar Shah, for the Applicant.

Mr Arfan Sait, APP, for the Respondent / State.

API Pavan Yadav, Powai Police Station, Mumbai, is present.

Mr Tanmay Karmarkar, Legal Aid Advocate for Respondent No.2.

Ms Nikita Uddhav Bodve, Respondent No.2 in person present.

Wife of applicant present.

Coram: R. N. Laddha, J.

Date: 26 September 2024

P.C.

. Heard Mr Ashok Saraogi, the learned Counsel appearing for the

applicant, Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent No.1 / State and and Mr Tanmay Karmarkar, the learned Counsel appearing on behalf of respondent No.2 / informant.

2. This is an application for pre-arrest bail filed by the applicant, apprehending arrest in CR No.552 of 2024, registered at Powai Police Station, Mumbai, for offences punishable under Sections 376, 376(2) (n) and 506(2) of the Indian Penal Code.

3. According to the FIR, the complainant and the applicant initially met in September 2023, following this interaction, the relationship progressed into love and lasts from 1 September 2023 till 31 January 2024. However, thing changed when the applicant allegedly manipulated the complainant into intimate encounters, and captured her photographs. This ultimately led the complainant to lodge the FIR.

4. Mr Ashok Saraogi, the learned Counsel appearing on behalf of the applicant submits that both the applicant and the victim are consenting adults who are engaged in consensual relationship. According to the applicant, he never photographed the victim's indecent photographs and is ready to surrender his mobile phone and to undergo medical examination. The learned Counsel further submits that informant was in contact with the applicant through Instagram messages after 31 January 2024 also. The investigation is

complete. The learned Counsel, on instructions of the wife of the applicant, states that the applicant does not possess a laptop.

5. Mr Arfan Sait, the learned Additional Public Prosecutor and Mr Karmarkar, the learned Counsel for the respondent No.2, jointly contend that offence is of grave nature. The applicant has made sexual relations with the complainant. The learned APP contends that the investigation has been completed except the seizure of the mobile phone of the applicant and his medical examination.

6. Upon perusing the records, it is evident that both the applicant and the victim are of legal age and were involved in a consensual relationship. Their relationship lasted from 1 September 2023 to 31 January 2024. Even thereafter, there are Instagram messages between the applicant and the victim in March 2024. The applicant is ready to surrender his mobile phone, undergo medical examination and cooperate with the investigation.

7. In the totality of the circumstances, this Court is inclined to exercise discretion in favour of the applicant. Hence, the following order:

(i) In the event of the applicant's arrest in connection with CR No.552 of 2024, registered at Powai 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 not contact the informant in any manner and shall not tamper with the evidence or influence the witnesses.

(iii) The applicant shall attend the concerned police station on 1st, 3rd and 4th October 2024 to undergo his medical examination and surrender his mobile phone / which device is used at the relevant time.

8. The application stands disposed of accordingly.

R. N. Laddha, J.