

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2141 OF 2024**

Adesh Suryakant Doifode	...	Applicant
vs.		
The State of Maharashtra and another	...	Respondents

Mr. Nikhilesh D. Pote a/w. Mr. Tanmay T. Jadhav and Mr. Shivaji Patil for applicant.

Mr. Prasanna P. Malshe, APP for respondent No.1-State.

Mr. Vijay P. Kamble, API, Kalamboli Police Station, District Navi Mumbai.

**CORAM : MANISH PITALE, J.
DATE : 13th AUGUST, 2024**

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent No.1-State.

2. The applicant is apprehending arrest in connection with FIR No.0258 of 2024 dated 18.07.2024 registered at Kalamboli Police Station, District Navi Mumbai for offences under Sections 376B, 420, 504 and 506 of the Indian Penal Code, 1860 (IPC).

3. The informant has alleged that even after the applicant and the informant were divorced, the applicant promised her that they will marry again and in that backdrop, he re-established physical relationship that the informant. As a consequence, the informant got pregnant and eventually, gave birth to a daughter. The informant already had a daughter from the applicant after marriage and before they were divorced. It is the case of the

informant that although the applicant was subsequently married, throughout he had represented to the informant that he will be separating from his wife and that he will remarry the informant. On this basis, the aforesaid offences have been registered against the applicant.

4. The learned counsel for the applicant submits that since September 2022, even according to the informant, she was aware that the applicant is married to another lady. In that light, the allegation made by the informant cannot be believed that under the promise of marrying her again, the applicant established physical relationship with her. It is submitted that even after the wife of the applicant quarreled with him and approached the police, the applicant had reached the police station alongwith the informant and candidly stated that he is ready to take care of both the women. It was further submitted that the wife of the applicant has recently given birth to a child and therefore, this Court may show indulgence, as the applicant is ready to co-operate with the investigation.

5. On the other hand, the learned APP has vehemently opposed the prayer made in the present application. He submitted that the ingredients of the offences registered against the applicant are clearly made out and this Court may not show any indulgence to the applicant.

6. One of the offences registered against the applicant is Section 376B of the IPC. This is an offence pertaining to sexual intercourse by husband with his wife during separation. The said provision i.e. Section 376B of the IPC clearly states that whenever a person has sexual intercourse with his wife, who has separated under a decree or otherwise, without her consent, he shall be punished with imprisonment which may extend to seven years.

7. The other offence registered against the applicant is Section 420 of the IPC, which is also an offence punishable with imprisonment upto seven years.

8. In the present case, according to the informant, the applicant gave her an impression that he would be marrying her again. In that backdrop, she took divorce from the person with whom she was married, after the applicant and the informant were divorced. On the basis of the promise and inducement, the informant had physical relationship with the applicant and this resulted in her pregnancy. Eventually, she gave birth to a daughter.

9. The aforesaid sequence of events stated by the informant, which led to registration of FIR, *prima facie* makes out the ingredients of the offences under Sections 376B and 420 of the IPC. It cannot be said that merely because the informant was aware about the fact that after divorce between her and the applicant, he had remarried, the grievance made by her cannot be said to be genuine. This Court is of the opinion that since the ingredients of the aforesaid offences are *prima facie* made out, the relief of anticipatory bail cannot be granted.

10. The application is dismissed.

11. Needless to say, the observations made in this order are only for considering the present application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

(MANISH PITALE, J)