

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

Anticipatory Bail Application No. 2180 of 2024

Ashfaque Pashamiya Shaikh
Age 28 years, Occupation -Nil,
Presently at :154/17, Ekta Apartment,
Maali Pada, Khadir Khoni, Bhiwandi,
Thane, Maharashtra – 421 308.

...Applicant

Vs.

1. The State of Maharashtra
Through Kongaon Police Station
at Mumbai (C.R. No.560/2024)

2. XYZ (Victim)
(Through Kongaon Police Station)

...Respondents

Mr. Khwaja Shaikh a/w. Ms. Rehana Nabdullah, for the Applicant.

Mr. M. G. Patil, APP for the Respondent – State.

Mr. Sham Thakur, Legal Aid Appointed Advocate, for the Respondent
No.2.

PSI Nilesh Wadkar, Kongaon Police Station, Bhiwandi, Thane is
present.

Coram: R. N. Laddha, J.

Date: 10 September 2024

P.C.

Heard Mr Khwaja Shaikh, the learned Counsel for the applicant;
Mr MG Patil, the learned Additional Public Prosecutor representing
the respondent/State; and Mr Sham Thakur, the learned Counsel
appearing on behalf of respondent No.2 / Complainant.

2. This is an application for pre-arrest bail filed by the applicant,
apprehending arrest in CR No.560 of 2024, registered at Kongaon

Police Station, Thane, for offences punishable under Section 376 of the Indian Penal Code.

3. The prosecution alleges that the applicant, an employee at Vijay Sales, met the victim while helping her purchase a mobile phone two years ago. This led to a romantic relationship, with the applicant proposing marriage, which the victim eventually accepted. It is further alleged that the applicant coerced the victim into sexual relations on multiple occasions, repeatedly promising marriage. The victim claims that the applicant's behaviour changed after a woman named Shaheen Noor revealed their affair, leading to the applicant avoiding the victim's calls and refusing to communicate.

4. Mr Khwaja Shaikh, the learned Counsel appearing on behalf of the applicant, submits that both the applicant and the victim are adults and were involved in a consensual relationship. The learned Counsel emphasises the considerable delay in filing the FIR. The applicant is ready to cooperate with the investigation and abide by any condition that this Court may impose.

5. On the other hand, Mr MG Patil, the learned Additional Public Prosecutor representing the respondent No.1/State, argues that the offence is serious. The applicant engaged in sexual relations with the victim under the false promise of marriage. However, the learned APP acknowledges that the investigation is complete and there is nothing to be recovered from the applicant.

6. Upon reviewing the records, it is evident that both the applicant and the victim are of legal age and were in a consensual relationship. This relationship lasted for two years before the FIR was filed. The informant's primary grievance appears to be that the applicant abruptly stopped communicating with her, affecting her mental well-being. The learned APP acknowledges that the applicant has co-operated with the investigation and nothing is to be recovered or discovered from the applicant. To address concerns about evidence tampering and witness influence, appropriate conditions can be imposed. The investigation is almost complete. Thus, the order of interim bail dated 5 August 2024 is made absolute on the same terms and conditions incorporated therein. It is clarified that the observations made hereinabove are confined to determine entitlement to pre-arrest bail only.
7. The application stands disposed of accordingly.

[R. N. Laddha, J.]