

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

Anticipatory Bail Application No.2851 of 2024

Durgappa @ Rajabhau Narsu Waghmode

Age: 40 Years, Occ: Business,

R/at: Real Estate, Rohan Mithila Society,

D2, Viman Nagar, Pune.

...Applicant

Vs.

1. The State of Maharashtra

(At the instance of the Senior PI-
Khar Police Station, Mumbai,
Vide CR No.799/2024)

2. XYZ

Age – 29 Years, R/at: Bungalow No.3
Shree Swami Samarth Bungalow,
Koregaon, Tal – Haveli, Dist. Pune,
through Khar PS, Mumbai

...Respondents

Mr Aniket Nikam, along with Mr Sumit Patil i/by Amit Icham,
for the applicant.

Mr Yogesh Dabke, APP, for respondent No.1/ State.

Ms Pushpa Ganediwala, along with Ms Anshu Agrawal and Ms
Kaushalya Patil i/by Hulyalkar & Associates, for respondent
No.2/ informant.

PSI MN Ghogare, Khar Police Station, Mumbai, present.

Coram: R.N. Laddha, J.

Date: 9 December 2024

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.799 of 2024, registered at Khar Police Station, Mumbai, for the offences punishable under Sections 376(2)(m), 377, 354, 504 and 506 of the Indian Penal Code.

2. According to the prosecution, between January 2022 and December 2023, the applicant/ accused gained the trust of the informant by professing his love for her. Under this pretence, he established a physical and an unnatural relationship with the informant at various locations, including the Hotel Oriental Residency in Khar as well as in Lonavala and Pune. Furthermore, it is alleged that the applicant, along with the co-accused, threatened to post indecent videos of the informant on social media platforms to make them viral. The applicant is also accused of making unwarranted physical contact and attempting to molest and outrage the modesty of the informant. Consequently, the informant lodged an FIR in August 2024.

3. Mr Aniket Nikam, the learned Counsel appearing on behalf of the applicant, submits that the applicant has been falsely implicated in the present crime. The applicant and respondent No.2/ the informant are consenting adults who voluntarily entered into a mutual relationship. Their

interactions and the nature of their association were entirely consensual with no evidence of coercion or undue influence. Their relationship lasted from January 2022 and December 2023 and the present FIR was lodged in August 2024. There is substantial delay in lodging the FIR. The present FIR is a retaliatory action in response to the complaint filed by the applicant against the informant in April 2022, which pertains to extortion and other relevant sections. The learned Counsel further submits that the applicant has no criminal antecedents, and is ready to surrender his mobile and undergo medical examination.

4. Mr Yogesh Dabke, the learned Additional Public Prosecutor representing respondent No.1/ State, and Ms Pushpa Gandediwala, the learned Counsel appearing for respondent No.2/ informant, opposing the application, argue that the offence is of a serious and grave nature. The applicant is accused of entering into a forcible physical relationship with the informant. They further submit that on 9 July 2024 around 2:00 a.m., at the Hotel Oriental Residency, the applicant entered the informant's room and inappropriately touched her. At that time, the informant was not in a position to resist and the applicant committed intercourse with her. In the morning, when the informant asked about this act, the applicant

proposed marriage claiming that his wife had passed away. Thereafter, the applicant had natural and unnatural sex with the informant frequently. The informant became pregnant, and when she informed the applicant about the same, the applicant gave her medicine for termination of the pregnancy. After some days, the informant came to know about the true nature of the applicant's marital status and his wife being alive. At that time, the applicant assured the informant about divorcing his wife but he never did so. The applicant also prepared videos of their relations. Mr Dabke, the learned APP, however, concedes that the investigation in this case is substantially complete, except for the applicant's medical examination and seizure of his mobile phone.

5. This Court has given anxious consideration to the rival submissions made across the Bar and perused papers.

6. Upon perusing the records, it becomes evident that both the applicant and the informant are of legal age, and their relationship spanned from January 2022 to December 2023. However, the present FIR was filed in August 2024. There is a substantial delay in lodging the FIR. Notably, in April 2022, the applicant filed an FIR against the informant, which culminated into the filing of a charge sheet, and the case remains pending

before the competent Court. It is pertinent to note that the informant, in filing the present FIR, failed to disclose the existence of the previous case initiated by the applicant. Moreover, there is material available on record to suggest that despite the ongoing legal proceedings, the applicant and the informant remained in regular contact during this period. The applicant has expressed his willingness to surrender his mobile phone and undergo a medical examination. To address concerns regarding tampering with evidence or influencing witnesses, appropriate conditions can be imposed. Hence, the following order:

ORDER

(i) In the event of the applicant's arrest in connection with CR No.799 of 2024, registered at Khar 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 11 December 2024, 12 December 2024 and 13 December 2024 between 11:00 a.m. and 2:00 p.m., and as and when required.

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

7. The application stands disposed of accordingly.

[R.N. Laddha, J.]