

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

Anticipatory Bail Application No. 2929 of 2024

Akash Uttam Vavalkar

Age 24 years, Occ. Student,
R/at. S. No.35/2, Ramnagar,
AB Sathe Chauk, Warje,
Pune - 411 058.

... Applicant

versus

1. The State of Maharashtra
(Through Ambernath Police Station)

2. XYZ

Age 52 years.
(Through Ambernath Police Station)

... Respondents

Ms Nishi Singhvi i/b Mr Kuldeep Nikam, for the applicant.

Ms Supriya Kak, APP, for respondent No.1 / State.

Ms Harshada Morey, for respondent No.2 (Legal Aid).

API Amol Khonde, Ambernath Police Station, is present.

Coram: R.N. Laddha, J.

Date: 19 December 2024

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.1153 of 2024, registered at Ambernath Police Station, Thane, for offences punishable under Sections 64, 64(2)(i) and 64(2)(m) of the Bharatiya Nyaya Sanhita, 2023, and

Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. According to the prosecution, under the pretence of marriage, the applicant established a physical relationship with the victim on several occasions. However, the applicant reneged on his promise to marry the victim and began distancing himself to avoid further contact. At the relevant time, the victim was a minor aged about 17 years 9 months.

3. Ms Nishi Singhvi, the learned Counsel appearing on behalf of the applicant, submits that both the applicant and the victim engaged in a consensual relationship, and nothing is on record to show that at the relevant time, the victim was a minor. Further, the investigation has concluded, and nothing is to be recovered from the applicant. The applicant is ready and willing to comply with the conditions imposed by this Court, including undergoing a medical examination.

4. On the other hand, Ms Supriya Kak, the learned Additional Public Prosecutor representing respondent No.1/ State, along with Ms Harshada Morey, the learned Counsel appearing for respondent No.2, contends that the offence is of a grave nature. The applicant engaged in sexual relations with the minor victim by falsely promising marriage. However, the learned APP,

acknowledges that the investigation has concluded, except for the applicant's medical examination.

5. Upon perusing the records, it appears that both the applicant and the victim were involved in a consensual relationship. Their relationship lasted from October 2023 to July 2024; however, the FIR was filed only in August 2024. The learned APP acknowledges that the investigation has concluded, except for the applicant's medical examination, and nothing is to be recovered from the applicant. Furthermore, there is no material on record to substantiate that at the relevant time the victim was a minor. Appropriate conditions can be imposed to address concerns regarding tampering with the evidence or witness influence. Given the foregoing, the application is allowed in the following terms:

(i) In the event of the applicant's arrest in CR No.1153 of 2024, registered at Ambernath Police Station, Thane, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or two sureties in the like amount.

(ii) The applicant shall attend the concerned Police Station from 23 December 2024 to 25 December 2024 between 11.00

a.m. and 2.00 p.m. to undergo medical examination and as and when required by the investigating officer.

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

6. The application stands disposed of accordingly.

(R.N. Laddha, J.)