

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

Anticipatory Bail Application No.3319 of 2024

Aakash Nandkumar Bhoir

Aged about 27 years,

Occupation: Service,

R/at Bhoir Chawl, L.M. Road,

Fansekar Wadi, Kandarpada,

Dahisar West, Mumbai-400 068.

... Applicant.

Versus

1. The State of Maharashtra

(Through Gorai Police Station)

2. XYZ

Gorai Police Station,

Gorai-2, Borivali (W), Mumbai-400092 ... Respondents

Mr Ketan Kolwankar for the applicant.

Mr Arfan Sait, APP, for respondent No.1/ State.

Mr Dhananjay Bhosale Legal Aid Advocate for respondent
No.2.

PI Ganesh Lokare, Borivali Police Station.

Coram: R.N. Laddha, J.

Date: 17 December 2024.

P.C.:

The learned Additional Public Prosecutor representing the
respondent/State, upon instructions from the Investigating

Officer present in the Court, states that respondent No.2 has already been informed about today's date. Since respondent No.2 was not being represented by any Lawyer, the Court appointed Mr Dhananjay Bhosale from the Legal Aid Panel to espouse the cause of respondent No.2.

2. By this application, the applicant seeks pre-arrest bail in connection with CR No.58 of 2024, registered at Gorai Police Station, Mumbai, for offences punishable under Sections 376, 376(2)(n) of the Indian Penal Code.

3. According to the prosecution, under the pretence of marriage, the applicant established a physical relationship with the informant. However, the applicant reneged on his promise to marry the informant and began distancing himself to avoid further contact. This led the informant to lodge the present FIR, accusing the applicant of deception and coercion.

4. Mr Ketan Kolwankar, the learned Counsel appearing on behalf of the applicant, submits that both the applicant and the informant are consenting adults and engaged in a consensual relationship. The informant, being a married woman, cannot be said to have acted under any alleged false promise or misconception of fact when consenting to a sexual relationship with the applicant. She maintained this relationship from

March 2024 to August 2024. As a mature and married woman, the informant was fully aware of the consequences of her actions. The applicant belongs to a backward class and has not made any caste-based remarks. Furthermore, the applicant has no criminal antecedents and is willing to comply with any conditions imposed by the Court. Additionally, the investigation, including the applicant's medical examination, has been concluded.

5. Mr Arfan Sait, the learned Additional Public Prosecutor representing respondent No.1/State, along with Mr Dhananjay Bhosale, the learned Counsel for respondent No.2, jointly submit that the offence is serious and grave. The applicant is accused of engaging in sexual relations with the informant under the false pretence of marriage, constituting a serious breach of trust. The applicant lured the informant into a sexual relationship by falsely promising marriage, subsequently breaching his promise. The informant's consent to the sexual relationship was given under a misconception of fact. The learned APP, however, fairly acknowledges that the investigation, including the applicant's medical examination, has been concluded.

6. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the material

available on record. The bone of the contention raised on behalf of the respondent/informant is that the informant consented to a sexual relationship under a misconception of fact, as the applicant allegedly deceived her with a false promise of marriage, which he later reneged. However, it is pertinent to note that the informant was already a married woman, and therefore, *prima facie*, it can not be said that her consent was given under the purported false promise or any misconception of fact. It is undisputed that she maintained the relationship with the applicant from March 2024 to August 2024 and only filed the present FIR in October 2024 without providing any explanation for the delay. Furthermore, the learned APP has confirmed that the investigation, including the applicant's medical examination, has been completed.

7. In light of the above, the application is allowed in the following terms :

- (i) In the event of the applicant's arrest in connection with CR No.58 of 2024, registered at Gorai Police Station, Mumbai, 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 as and when required by the investigating officer till the filing of the charge sheet.

(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.

8. The application stands disposed of accordingly.

(R.N. Laddha, J.)