

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

Anticipatory Bail Application No.3328 of 2024

Neraj Ahmed Khan

Aged 34 years, Occ.: Employee,
Residing at, 07, Raja Singh Chawl,
Subhash Nagar, Kurla-Andheri Road,
Opp. Piyush Medical, Jari Mari, Kurla (W),
Mumbai - 400 072

... Applicant

Versus

1. The State of Maharashtra
(At the instance of Gorai
Police Station, Mumbai)

2. XYZ

Aged 28 years, Occ.: Employee,
Residing at, Room No.101,
Bldg. No.9A, Hiranandani Akruti,
Lalubhai Compound,
Mankhurd, Mumbai - 43.

... Respondents

Mr Murtuza Najmi, i/b. Dilip Shukla, for the applicant.

Mr Arfan Sait, APP, for the respondent/ State.

Ms Davinder Kaur Sabharwal, for respondent No.2 (Legal Aid).

Complainant present in person.

PI Gavli, Gorai Police Station, is present.

Coram: R.N. Laddha, J.

Date: 11 December 2024.

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.65 of 2024, registered at Gorai Police Station, Mumbai, for offences punishable under Sections 376 and 376(2)(n) of the Indian Penal Code.

2. In the FIR, the first informant/the victim stated that she has known the applicant/accused since 2014, as they worked together in the same garment shop. In 2015, the applicant took the informant to a lodge in Borivali, where he forcibly establish physical relations with her under the pretext of a promise to marry. He said to have repeated this act multiple times, reiterating his promise of marriage. In November 2022, the applicant informed the informant that his family did not approve of their marriage. Despite this, in January 2024, the applicant took the informant to a lodge near Sakinaka Metro Station and once again establish physical relations with her, threatening to reveal details of their past relationships if she resisted. On 9 November 2024, the applicant met the informant and threatened to disclose the details of the relationship to others. In short, the FIR alleges that the applicant exploited his friendship with the informant, made false promises of marriage to gain the informant's consent, and forcibly established physical relations with her.

3. Mr Murtuza Najmi, the learned Counsel appearing on behalf of the applicant, submits that both the applicant and the informant are consenting adults and voluntarily entered into a mutual relationship. The interactions and the nature of association of the applicant and the victim were entirely consensual with no element of coercion or undue influence. The learned Counsel further submits that the investigation in the matter has been completed and nothing is to be recovered or discovered from the applicant. The applicant is ready to undergo medical examination, and surrender his mobile phone, as well as comply with the conditions imposed by this Court.

4. On the other hand, Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent/ State along with Ms Davinder Kaur Sabharwal, the learned Counsel for respondent No.2, contend that the offence is of a serious and grave nature. The applicant entered into a physical relationship with the informant by falsely promising marriage. The learned APP, however, concedes that the investigation in the case is substantially complete, except for the medical examination of the applicant and seizure of his mobile phone.

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

It is not in dispute that the applicant and the informant are of legal age and were involved in a consensual relationship. Their relationship lasted from 1 January 2014 to 31 January 2024. However, the FIR was lodged in November 2024. There is a substantial delay in lodging the FIR. Moreover, the learned APP, acknowledges that the investigation is at an advance stage and except for the medical examination of the applicant and the seizure of his mobile phone, which he is ready to undergo and surrender. To address concerns regarding tampering with evidence or witness influence, appropriate conditions can be imposed. Hence, the following order :

ORDER

(i) In the event of the applicant's arrest in connection with CR No.65 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 more sureties in the like amount.

(ii) The applicant shall attend the concerned police station to undergo his medical examination as directed by the investigating officer, surrender his mobile phone and cooperate with the investigation.

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

6. The application stands disposed of accordingly.

[R.N. Laddha, J.]