

(Corrected as per speaking to minutes order dated 08.01.2025.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3406 OF 2024

Sukesh Balasaheb Khot ... Applicant

Vs.

State of Maharashtra ... Respondent

Mr. Nikhilesh Pote for Applicant.

Mr. Rutuja A. Ambekar, APP for Respondent-State.

CORAM : MANISH PITALE, J.

DATE : DECEMBER 16, 2024

P.C. :

. Heard Mr. Pote, learned counsel for the applicant and Ms.Ambekar, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0322 of 2024 dated 13.11.2024 registered with Kothrud Police Station, District - Pune City, for offences under Sections 376 and 376(2) (n) of the Indian Penal Code, 1860 (IPC).

3. The informant in her statement, leading to registration of the FIR, has stated that, in response to her profile being put on a matrimonial website, the applicant got in touch with her. It is stated that the applicant was a divorcee and the informant was of the opinion that despite the applicant being a divorcee, the alliance between the two could be explored. The two were regularly in touch with each other. It is specifically stated in the statement of the informant that since her caste was wrongly mentioned in the profile on the matrimonial website, she directly told the applicant about her actual caste, upon which, the applicant said that he had no objection to go ahead with exploring the possibility of two getting married.

4. According to the informant, in this backdrop, the applicant called

the informant to his flat, assured her about the marriage and expressed his desire of having physical relationship, to which the informant resisted. However, the applicant established physical relationship with the informant forcibly on the pretext of getting married. This was further repeated by the applicant.

5. It is the case of the informant that thereafter when he started avoiding the step of getting married, the informant pursued the matter and even the sister of the informant spoke to the applicant. At this stage, the applicant indicated that he wanted a simple registered marriage, and not a fancy one. Soon thereafter, he started avoiding the informant and refused to marry her. In this backdrop, according to the informant, she was cheated and used by the applicant by giving false promise of marriage.

6. The learned counsel for the applicant submits that the actual caste of the informant was suppressed from the applicant and when it came to light, problems arose at his end, and therefore, the marriage could not take place. It is submitted that in such circumstances, it cannot be said that the theory of false promise of marriage can be accepted. It is also submitted that the applicant was ready to co-operate with the investigation as is evident from the statement recorded on 13.08.2024 by the police. It is further submitted that since the applicant is ready to co-operate with the investigation, this Court may allow the application.

7. On the other hand, the learned APP submits that the statement of the informant as well as statements of witnesses make out a strong *prima facie* case of false promise of marriage and in that backdrop, the applicant having established physical relations with the informant. It is submitted that the ingredients of the offences are clearly made out. As regards statement of the applicant being recorded, it is clarified that such statement was given on 13.08.2024, when the FIR was yet to be

registered and preliminary enquiry was instituted. Even in the said statement, the applicant merely stated that he would require a couple of days to settle the dispute with the informant and that he had not cheated the informant.

8. This Court has perused the documents filed along with the application, as well as the documents forming part of the investigation papers. The allegations made in the statement of the informant, which led to registration of the FIR, are clear. The instances of physical relations between the informant and the applicant have been specifically stated with a clear allegation that such relationship was established on the basis of promises of marriage made by the applicant. Considering the nature of the statement of the informant, which is corroborated by the other statements on record, including the statement of the sister of the informant, this Court is of the opinion that a *prima facie* case regarding ingredients of the alleged offences is made out.

9. There is no substance in the contention raised on behalf of the applicant that he has been co-operating with the investigation, simply for the reason that the statement of the applicant was given on 13.08.2024, much prior to registration of the FIR. Even in the said statement, the applicant, *prima facie*, appears to have responded by trying to postpone the matter and requesting for time of couple of days to settle the matter. There is nothing to show that after the FIR was registered and investigation was initiated, the applicant, in any manner, has co-operated with the investigation.

10. No case is made out for granting anticipatory bail. The application is dismissed.

11. Needless to say, the observations made in this order are limited to deciding the present anticipatory bail application.

(MANISH PITALE, J.)