



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

930 ANTICIPATORY BAIL APPLICATION NO. 1871 OF 2024

Abhishek Sanjeev Gupta

....Applicant

VERSUS

The State of Maharashtra & another

.....Respondents

.....

Mr. A. K. Bhosle, Advocate for Applicant.

Mrs. M. N. Ghanekar, APP for the State.

Mr. S. B. Rajebhosale, Advocate for Respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 24th JANUARY, 2025.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 394/2024 registered with Mukundwadi Police Station, Dist. Aurangabad for the offences punishable under Sections 351(2) and 69 of Bhartiya Nyaya Sanhita, 2023.

2. First Information Report indicates that the informant got in contact with present applicant through Jyotiram against whom informant had lodged previous report. It is alleged in the report that for the first time in November 2022, physical relations were established by the applicant with her on the false promise of marriage. There are other allegations which include allegation of

forcible termination of pregnancy. There is also allegation in the report that informant had learnt from a lady named in the First Information Report that she was also similarly being cheated by the applicant on false promise of marriage.

3. Learned counsel for applicant submits that before filing of the First Information Report, notice was issued on 16.09.2024 seeking monetary compensation apart from tendering of apology etc. It is his submission that informant herein had lodged Crime No. 312/2022 against said Jyotiram making same allegations against him. It is his submission that said crime was quashed by consent in Criminal Application No. 3782/2023. It is thus his contention that even if it is accepted for the sake of argument that there is physical relationship between applicant and the informant, the same is to be treated as consensual one. He also drew attention of the Court to the orders passed by the competent Court dissolving two marriages of the informant herein. Finally, it is argued that this is not a case of custodial interrogation.

4. Learned APP and learned counsel for the informant have vehemently opposed the application. It is their contention that the

allegations against the applicant are serious in nature. In this regard, attention of the Court is drawn to the allegations made against the applicant in respect of the incident occurred in hospital. It is also submitted that even before registration of crime, father of the applicant had sought to extract huge money from the informant. Learned counsel for informant has also drawn attention of the Court to the First Information Report lodged against applicant being Crime No. 202/2024 for the offences punishable under Section 420, 467 of Indian Penal Code. Thus, it is his contention that the applicant has criminal history and as such this is not a fit case for grant of pre-arrest bail.

5. First Information Report no doubt makes serious allegations against the applicant with regard to the incident being occurred in Kokilaben Dhirubhai Ambani hospital, Mumbai. In this regard, however, the correspondence by said hospital to the investigating agency indicates that there was no mention of forcible sexual intercourse or rape during her treatment or stay in the hospital. Apart from this, reason is recorded for termination of pregnancy. This material evidence coming from hospital indicates that prima facie there is no substance in the said allegation.

6. There is no dispute about the fact that both applicant and informant are major. Informant had two previous marriages which unfortunately have resulted into dissolution. In such circumstances, this Court finds it difficult to accept that merely on the basis of false promise of marriage, informant permitted the applicant to have physical relations with her. Apart from this, the allegations with regard to other offences do not pertain to the nature of offence which is alleged against the applicant. It is pertinent to note that though there is allegation made in the First Information Report by naming a woman who also has suffered similar fate at the hands of the applicant, in the supplementary statement no details were provided by the informant to enable the investigating agency to carry out investigation in this regard. Suffice it so say that this Court finds substance in the contention of learned counsel for the applicant that this could be a case of consensual relationship between two adult persons and since the relationship became sour, it resulted into lodging of report. Hence, application is allowed in terms of interim order.

(R. M. JOSHI)
Judge