

Ajay

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

ANTICIPATORY BAIL APPLICATION NO. 57 OF 2025

Harsh Uday Singh

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Mr. Khalid Gujar, Advocate for Applicant.
 - Ms. Megha Bajoria, APP for Respondent – State.
 - API Ms. Pooja Chavan, Samtanagar Police Station present.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 10, 2025.

P.C.:

1. Heard Mr. Gujar, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent – State and with their able assistance, perused the record.

2. This Application is for anticipatory bail in respect of Crime No.937 of 2024 registered with Samatanagar Police Station, Kandivali by the Complainant.

3. Complaint is lodged against Applicant initially under Section 69 of the Bharatiya Nyaya Sanhita, 2023 (for short “**BNS**”), for having sexual intercourse with Complainant by making a promise to marry her without intention of fulfilling the same. Ms. Bajoria, learned APP at the outset would submit that said complaint has been now revised and Sections 64(2)(f) and 64(2)(m) under the BNS has also been added.

These provisions pertain to committing rape being a person of trust or authority towards the woman and committing rape repeatedly.

4. First Information Report (FIR) is filed on 19.11.2024 and the incident alleged in the FIR is stated to have happened from 01.07.2022 to 19.10.2024. It is the Complainant's case that in June 2022, she joined a Company by the name of 'Mastertrust Company' located at Goregaon (East), Mumbai. It is at that company she befriended the Applicant who was 34 years old at that time whereas Complainant was 27 years old.

5. It is Complainant's case that she was interviewed by the Applicant and he informed her that she is selected for the post of Regional Manager in the Company. It is stated that both the Applicant and the Complainant thereafter started talking and sending messages to each other. According to Complainant, within 15 days of their interaction, Applicant confessed his love for her. Complainant has therefore stated that from July 2022 onwards she used to spend time with the Applicant because he took care of her, supported her in work and therefore she also developed feelings for him and fell in love with him.

6. It is stated that the Complainant frequently visited Applicant's house located in Kandivali. On many occasions when meetings were held at the company's Kandivali office premises and his

house and it used to get delayed, she used to stay over at the Applicant's house and during those times she developed intimacy with him and had regular physical relationship with him. It is stated so in the FIR.

7. It is an admitted fact that Complainant had consensual physical relationship with Applicant since 2022. In the FIR she narrates an incident which according to her took place in October 2022 when the Applicant mixed something in her food which made her feel dizzy. She alleges that when she regained her senses, Applicant had by that time taken several photographs of her in a compromising position without her clothes and videographed her. He thereafter used those compromising photographs to repeatedly commit rape upon her. Thereafter the Complainant narrates another incident which transpired on 19.11.2024 where she overheard the Applicant speaking on a video call to some other lady and when she intervened and spoke to the said lady, the said lady told her that she and Applicant were going to get married. This is when the FIR came to be filed.

8. The aforesaid incident clearly shows that from July 2022 until 19.10.2024 the Complainant was undoubtedly involved in a consensual relationship with the Applicant. The Complainant herself confessed in the FIR that she regularly visited and on several occasions stayed over at the Applicant's house where they indulged in physical

relationship. It is seen that Applicant thereafter got married on 24.11.2024 to some other girl. Complainant's FIR is lodged on 19.11.2024.

9. There are two things which are amply clear in the facts of the present case before me; one that consensual relationship between Applicant and Complainant was over a substantial period of time i.e. for a period of two years between July 2022 and 19.10.2024; secondly and more importantly, the delay in filing the complaint with respect to the allegation that in October 2022, Applicant had taken compromising photographs of the Complainant. With regards to the photographs, the same can be dealt with by directing the Applicant to deposit his electronic devices viz, mobile phone/s and laptop or desk top and hard drive. Insofar as the aspect of offence described under Section 64(2) (f) is concerned, it is pertinent to note that the parties were in a consensual relationship for over two years prior to the alleged unsavory incident. For two and half years there was clear relationship between the parties. Applicant as well as Complainant were both consenting adults of the age 34 and 26 years respectively at the beginning of their relationship.

10. The allegation that Applicant in order to establish physical relationship with Complainant had promised her marriage without the intention of fulfilling that he would marry her is something that is a

matter of investigation and trial. In so far as the consent between the parties is concerned, the same is clearly seen. Applicant has no criminal antecedents. Applicant got married on 24.11.2024. Charge of Section 64(2)(f) and 64(2)(m) of the BNS has been added subsequently after the filing of the FIR on 19.11.2024. This itself dilutes the case of the prosecution atleast to that extent considering the Applicant's case for anticipatory bail.

11. Ms. Bajoria, learned APP would submit that the possibility tampering of evidence cannot be ruled out as also the fact that the offence is serious. I have considered the rival submissions and after going through the record of the case and considering the facts delineated herein above, I am of the opinion that custodial interrogation of the Applicant is not required. Applicant is directed by this Court to deposit his mobile phone and laptop with the Investigating Officer by 10:00 A.M. tomorrow i.e. on 11.01.2025. Hence, the following order:-

- (i) In the event of the arrest, Applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of the concerned Police Station, once every month on the first Monday of the month between 10:00 a.m. to 12:00

noon in the first instance for 3 months and thereafter as and when called for by the Investigating Officer alongwith the requisite information / documents;

- (iii) Applicant shall furnish particulars of his address and mobile number to the Investigating Officer within two days from today;
- (iv) Applicant shall not misuse his liberty in any manner or influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence;
- (v) It is directed that Applicant shall extend complete cooperation in the investigation of the instant case;
- (vi) Applicant shall not make any attempts to re-associate with the Complainant in any manner either through a device or in-person; and
- (vii) Any infraction of the conditions shall entail revocation of this order.

12. Parties to act on a server copy of this order.

13. Anticipatory Bail Application is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

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