

Ajay

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

ANTICIPATORY BAIL APPLICATION NO. 83 OF 2025

Nitinkumar Awadhesh Singh

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondents

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- Mr. Azizkamal Shukla, Advocate for Applicant.
 - Ms. Megha Bajoria, APP for Respondent No.1 – State.
 - Mr. Arvind Tiwari, Advocate for Respondent No.2.
 - Mr. T.D. Salunkhe, API Navghar Police Station present.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 22, 2025.

P.C.:

1. Heard Mr. Shukla, learned Advocate for Applicant, Ms. Bajoria, learned APP for Respondent No.1 – State and Mr. Tiwari, Advocate for Respondent No.2.

2. This Application is filed by the Applicant under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Anticipatory Bail in connection with F.I.R. No.462 of 2024 dated 15.08.2024 registered with Navghar Police Station for offences under Sections 64(2)(d) and 69 of Bharatiya Nyaya Sanhita, 2023 readwith Sections 4, 8 and 12 of Protection of Children from Sexual Offences Act, 2012 (for short “POCSO”).

3. Briefly stated, prosecution case is that when victim used to

go to tuition classes of Applicant they got acquainted with each other and Applicant by giving promise to marry her, forcibly established physical intimacy with her repeatedly since victim was a minor. It is prosecution case that when victim asked him about the marriage, Applicant avoided her and eventually refused to marry her. Thereafter victim lodged the present First Information Report (FIR) against the Applicant.

4. Mr. Shukla, learned Advocate for Applicant would submit that the Applicant has completed his education in business management from Dublin Business School from 01.01.2020 to 30.06.2021 and pursuant to completion of his education, he started working as Global Product Support Analyst in Accenture (UK) Limited since 15.11.2021 till date. He would submit that the present case is nothing but a false and concocted story and that Applicant's family was taken aback when on 11.08.2024, victim came to his house and informed them that she and Applicant were in a relationship and when Applicant was confronted, he informed his family members that the victim alongwith her family was extorting money from him. In this regard, he has drawn my attention to the receipts of transfer of money from Applicant's bank account to victim's bank account which is annexed at Exhibit "G" of the Application. He would submit that only when the Applicant could not fulfill victim's demand for an exorbitant amount, she has lodged the F.I.R.

4.1. He has drawn my attention to a NCR No. 1931/2024 dated 16.09.2024 lodged by aunt of prosecutrix and neighbour of Applicant against the prosecutrix as she threatened her with dire consequences and indictment in criminal case if she supported Applicant. The said NCR is annexed at Exhibit "J" page No.119 of the Application.

4.2. He would submit that there is an unexplained inordinate delay of 5 years and 7 months since the alleged occurrence of first incident in 2019 till lodging the F.I.R. on 15.08.2024 and hence allegations made by the victim are suspicious. He would submit that Applicant is a permanent resident of Bhayander (East), Thane and is currently working in Dublin, Ireland and hence there are no chances of the Applicant absconding. He would submit that Applicant is ready and willing to extend his co-operation for the investigation and has no criminal antecedents to his discredit. Hence he would pray that Anticipatory Bail Application of Applicant may be allowed on any terms and conditions as deemed fit by the Court.

5. *PER CONTRA*, Ms. Bajoria, learned APP for State has vehemently opposed the Application and would submit that the victim was a minor at the time of the first incident and hence her consent is immaterial as the offence is under POCSO Act. She would submit that the offences against Applicant are serious and hence his custodial interrogation is necessary.

6. Mr. Tiwari, learned Advocate for Respondent No.2 – prosecutrix has supported the submissions advanced by Ms. Bajoria and in addition would vehemently submit that as the Applicant is working in Dublin, Ireland there is a possibility of him not co-operating with the investigation in the present case. He would submit that Applicant by giving false promise to marry the prosecutrix has induced her for establishing physical intimacy. Hence he would submit that allegations against Applicant being serious in nature, his Application for Anticipatory Bail be rejected and his custodial interrogation is required.

7. I have perused the F.I.R. and the statement of the prosecutrix therein. *Prima facie*, it appears that there was a clear consensual relationship between the Applicant and prosecutrix right from the date of the first incident and thereafter when Applicant moved to Dublin, Ireland for his further education and career prospects and returned back twice. It is seen that at various intervals of time, prosecutrix has also demanded monies from Applicant and Applicant has transferred the amount to her which is evident from the bank transfer receipts viz.' for amounts ranging from Rs.500/- to Rs.25,000/- which are annexed as Exhibit "G" to the Application. Applicant has also relied on Whatsapp chats between Applicant and prosecutrix which make it evident that prosecutrix though minor was capable of understanding the import and consequences of her actions

and she has voluntarily accompanied Applicant. She has also consumed contraceptive pills of i-pill Company given to her by Applicant. From the Whatsapp conversation appended as Exhibit “H” collectively, it can be gathered that admittedly prosecutrix and Applicant were in a consensual relationship however whether she consented for establishing physical intimacy would be a matter of evidence. It *prima facie* appears that only when Applicant refused to accede to the exorbitant demands of the prosecutrix, she has lodged the present F.I.R.

8. In this regard, support is drawn from a decision of this Court (Coram: Bharati Dangre, J.) passed in the case of ***Faizan Wahid Baig Vs. The State of Maharashtra***¹ wherein the Court was faced with a similar situation like the present case and the prosecutrix therein was 15 years 4 months and the accused was about 21 years. After considering the entire material on record, the Court noted that the Applicant therein was also a young boy and possibility of he being smitten by infatuation cannot be ruled out. Similar is the case herein in as the age of the prosecutrix at the time of alleged first incident was over 15 years and Applicant was 24 years. Further in the present case, complainant even after becoming major kept physical relationship with Applicant on several occasions. This is clearly borne out from the F.I.R. itself.

¹ Bail Application No.3372 of 2021 decided on 15.11.2022

9. Furthermore, the NCR dated 16.09.2024 lodged by Mrs. Archana Mandal against the prosecutrix *prima facie* supports the case of Applicant and creates a shadow of doubt on the version of the prosecutrix. Be that as it may, in the view of the above observations, custodial interrogation of the Applicant is not necessary and his presence for investigation and trial can be secured by imposition of certain conditions.

10. In that view of the matter, Anticipatory Bail Application stands allowed in terms of prayer clause (a), however subject to the following terms and conditions:-

- (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 Navghar Police Station on VC since Applicant's Advocate informed the Court that Look Out Circular has been issued in view of the registration of the present crime;
- (iii) Liberty is granted to the Applicant to take appropriate steps to file an appropriate proceedings on the basis of the present Anticipatory Bail order in so far as the said Look Out Circular is concerned;

- (iv) Applicant is directed to cooperate with the Investigating Officer on VC until his return to India;
- (v) Applicant is directed to file an undertaking before the Investigating Officer that he will report to the Investigating Officer within one week after his arrival in India and thereafter he will report to the concerned Investigating Officer and thereafter as and when called for;
- (vi) Applicant shall furnish particulars of his address, mobile number and email ID of India as well as Dublin, Ireland to the Investigating Officer within one week from today;
- (vii) 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;
- (viii) It is directed that Applicant shall extend complete cooperation in the investigation of the instant case;
- (ix) Applicant shall not make any attempt to re-associate with the victim in any manner either through any device or in-person;

(x) Any infraction of the conditions shall entail revocation of this order.

11. Anticipatory Bail Application stands allowed and disposed.

[MILIND N. JADHAV, J.]

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