

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.115 OF 2025

Dhiraj Avinash Mishra

.. Applicant

Versus

The State of Maharashtra and Anr.

.. Respondents

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- Mr. Sushrut Jadhwar, Advocate for Applicant.
- Ms. Megha S. Bajoria, APP for Respondent – State of Maharashtra.
- None for Respondent No.2.
- PI – Ms. Swapnali Devakate, Shivaji Park Police Station (88059).

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 15, 2025

P.C.:

1. Heard Mr. Jadhwar, learned Advocate for Applicant and Ms. Bajoria, learned APP for Respondent – State of Maharashtra.

2. This is an Application under Section 482 of Bharatiya Nagrik Suraksha Sanhita, 2023 seeking Anticipatory Bail in view of indictment by Complainant by First Information Report No. 464 of 2024 (for short 'FIR') dated 18.12.2024 registered with Shivaji Park Police Station under Sections 69 of Bharatiya Nyaya Sanhita, 2023. The date of incident as stated in the FIR are from 26.02.2024 to 30.10.2024.

3. The Complainant herself has admitted to the fact that she met the Applicant on matrimonial site some time in September – 2023 and thereafter exchanged several messages with him and talked to him on phone and developed closeness. On 26.02.2024, Applicant invited

Complainant for his birthday celebration held in a hotel at Matunga where they spent some time together and had physical relationship for the first time. Though it is stated by Complainant that at that time, she had evoked promise from Applicant to marry her, the said promise has not been kept and FIR has been lodged in December – 2024. However what transpired between February – 2024 and December – 2024, *prima facie* leads to the conclusion that Complainant who was 21 years old was clearly knowledgeable about her act and actions. She herself has stated that in the month of March and upto April – 2024, she met the Applicant repeatedly and they both had physical relationship in a hotel at Matunga on atleast three occasions, then at different hotels in Khar, Road, Andheri and Santacruz on one occasion each and in April – 2024 in a hotel at Arnala Beach. Thereafter Complainant has categorically stated that between April – 2024 and August – 2024, both of them met each other several times and had physical relationship every time. Complainant was of an understanding age so as to understand the implication of her act as she was a major. Complainant works as receptionist in a dentist's dispensary in Sion. The acts have been repeatedly committed.

4. Ms. Bajoria has vehemently argued that it is the consistent case of Complainant that Complainant had evoked promise from Applicant but Applicant resiled from his promise and that was the reason to keep the relationship with him. From reading of FIR and

record, it is seen that at no point of time there was any coercion on Complainant by any act or means by the Applicant to keep physical relationship but she on her volition had kept the said relationship with him. It is also brought to my notice by Ms. Bajoria that parents of both the parties were involved to arrange the marriage of Complainant with Applicant but reading of FIR shows that Applicant does not want to marry the Complainant. The custodial interrogation of Applicant is not required in the above facts when the relationship as can be clearly seen was clearly consensual in nature without any force or any coercion for a long duration.

5. 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 at concerned Police Station from 20.01.2025 to 22.01.2025 from 10:00 a.m to 05:00 p.m. and as and when called for by the Investigating Officer for investigation;
- (iii) Applicant shall furnish particulars of his address

and mobile number to the Investigating Officer within one week 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 attempt to re-associate with the victim in any manner either through any device or in-person;
- (vi) Applicant shall deposit his mobile phone and all other electronic device as and when called for by the Investigating Officer for the purpose of investigation; and
- (viii) Any infraction of the conditions shall entail revocation of this order.

- 6.** Parties to act on a server copy of this order.
- 7.** Anticipatory Bail Application stands allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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