

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

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CRIMINAL BAIL APPLICATION NO.5433 OF 2024

Sultan Akhtar Mohd Hashim Shaikh

... Applicant

Vs.

The State of Maharashtra and Anr.

... Respondent

Mr. Veerdhaval Kakade a/w Ms. Mrunal Jadhav, Advocates for Applicant
Hitendra J. Dedhia, APP for the Respondent-State.

Ms. Keral Mehta, Adv. for Respondent No.2

APP Kishor T. More, Mira Road Police station.

CORAM : R. M. JOSHI, J.

DATED : 05th MARCH 2026.

P. C. :-

1. The learned Counsel for the applicant/accused seeks bail in connection with Crime No.I-151 of 2024 registered with Mira Road Police Station for the offences punishable u/s. 376, 376(2)(n), 313 and 420 of I.P.C.

2. This report is lodged by informant that she got acquainted with the applicant/ accused who on false promise of marriage established forcible physical relations with her. It is her contention that the applicant has agreed to divorce his wife and marry informant. There is further allegation that out of the physical relations between that she became pregnant however abortion was got done by the applicant posing himself as husband before Doctor. She further alleged about she having paid to

him on different occasion a total sum of Rs.68,13,160/-. On the basis of the said complaint, crime was registered and after completion of investigation, chargesheet is filed.

3. Learned Counsel for the Applicant submits that the allegation of informant with regard to false promise of marriage and establishing physical relations on such promise is not tenable in view of her own statement that even before filing of First Information Report, she has married in November 2023 with another person. In so far as the other allegations with regard to the money obtained by him, it is his contention that on conclusion of investigation and filing of the chargesheet, his further custody is not necessary and that he can not be kept in jail by way of pre-trial punishment.

4. Learned A.P.P. and Counsel for respondent No.2 opposed these contentions. It is the contention of the learned Counsel for the respondent No.2 that there is no evidence to show that the informant is in fact married. As far as the money taken by the applicant is concerned, reference is made to the affidavit given by the applicant before lodging of First Information Report admitting obtaining of hand loan from the informant.

5. There is no dispute about the fact that the respondent No.2 is major. Further, at the time of the physical relations between them, applicant was married. The abortion has taken place in August 2020. First

Information Report came to be lodged in 2024. Apparently, F.I.R. is lodged as the applicant has not returned the amount which were received by him from the informant. Having regard to the material on record, there is grievance to believe that this is a case of consensual relation between two adult persons. Apart from this, the Court finds substance in the contentions of the conflict for applicant that while recording history obtained by the medical officer, informant specifically states about her marriage being performed in the November 2023 i.e. before lodging of the report. Having regard to these facts, this is a fit case for allowing the application of the applicant.

6. Hence, following order.

- 1) The application stands allowed.
- 2) In connection with Crime No.I-151 of 2024 registered with Mira Road Police Station, Applicant be enlarged on bail on furnishing PR bond of Rs.25,000/- with one surety in the like amount to the satisfaction of the Trial Court.
- 3) The applicant shall not contact victim, respondent No.2 in any manner.
- 4) Any breach of the conditions will result the vacation of this order and the Applicant shall be taken custody for undergoing trial.

5) Applicant to attend all dates of hearing before the Trial Court unless exempted by Trial Court by passing specific order.

(R. M. JOSHI, J.)