

SUPREME COURT OF INDIA**Bench: Justice B.V. Nagarathna and Justice Ujjal Bhuyan****Date of Decision: 26 September 2023**

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2023

[@ SLP (Crl) No.2219 of 2023]

VASAVA SANJAYBHAI DALPATBHAI**Appellant(s)****VERSUS****THE STATE OF GUJARAT & ANR****Respondent(s)****Sections, Acts, Rules, and Article:**

Sections 376(2)(n) and 406 of the Indian Penal Code, 1860 (IPC)

Subject: Anticipatory Bail and False Complaint in the context of IPC Sections 376(2)(n) and 406.

Headnotes:

Anticipatory Bail – Appellant accused of offenses under Section 376(2)(n) and 406 IPC – Denial of anticipatory bail by lower courts – Appellant cooperated with the investigation – Charge sheet filed – Case for trial – Appellant granted anticipatory bail, subject to conditions imposed by the trial Court. [Para 1-3]

False Complaint – Allegation of false complaint by the respondent-complainant due to a failed marriage proposal – Appellant's cooperation with the investigation considered – Observations made in the order only for the purpose of considering anticipatory bail. [Para 4-5]

*Release on Anticipatory Bail – Appellant released on anticipatory bail –
Conditions to be imposed by the trial Court. [Para 6]*

Referred Cases: None.

ORDER

IA No.103523 of 2023- Application for impleadment is allowed.

Complainant is arrayed as Respondent No.2 in this matter.

Leave granted.

We have heard learned counsel for the appellant, learned counsel for the respondent-State as well as the learned counsel for the complainant and perused the material on record.

Admittedly, there was a proposal for the appellant accused to get married to the respondent-complainant, (who has been impleaded in this proceeding) in the year 2019. However, F.I.R. bearing No.11823017210969 was filed by the respondent-complainant on 29.09.2021 invoking Section 376(2)(n) and 406 of the Indian Penal Code, 1860 ('IPC' for short). The appellant who has been unsuccessful in securing anticipatory bail before the Sessions Court as well as the High Court, has approached this Court impugning the said orders.

During the pendency of this proceeding before this Court, interim order in favour of the appellant was granted to the effect that he shall not be arrested in connection with the aforesaid F.I.R. subject to making himself available for further investigation.

Today, learned counsel for the respondent-State submitted that the investigation has been completed and a charge sheet has been filed against the appellant.

Learned counsel for the appellant submitted that the complaint against the appellant herein was wholly unwarranted inasmuch as there was a

proposal for the parties to get married and there was a consensual physical relationship between the parties. However, since the marriage proposal failed, the respondent-complainant has filed a false complaint against the appellant herein.

By way of response, learned counsel for the respondent-complainant submitted that the complainant is aggrieved by the acts of the appellant herein and therefore, has rightly invoked, inter alia, Section 376 (2)(n) of the IPC and now that the charge sheet has been filed by the respondent-State, this is not the fit case where the appellant ought to be released by grant of anticipatory bail.

We have considered the facts of the present case in light of the submissions made by the respective counsel. We also find that the appellant has cooperated with the investigation and there has been a charge sheet filed. Now the matter is for the trial of the case and for the prosecution to prove the allegation against the appellant herein. However, having regard to the factual background of this case, we find that this is a case where the appellant ought to be released on anticipatory bail. This is, however, subject to the conditions to be imposed by the trial Court. One of the conditions shall be that the appellant shall cooperate with the trial of the case before the concerned Court.

It is also clarified that the observations made in this order is only for the purpose of considering the case of the appellant for anticipatory bail.

In the circumstances, the appeal is allowed. The appellant is released on anticipatory bail, subject to the conditions to be imposed by the trial Court. The appeal is allowed in the aforesaid terms.

Pending application(s), if any, shall also stand disposed of.

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