

Hitesh Umeshbhai Mashru

v.

The State of Gujarat & Anr.

(Criminal Appeal No. 812 of 2025)

18 February 2025

[Bela M. Trivedi and Prasanna B. Varale, JJ.]

Issue for Consideration

Appellant, if entitled to anticipatory bail.

Headnotes[†]

Anticipatory Bail – FIR against the appellant u/ss.493, 376(2), Penal Code, 1860 – High Court declined to grant anticipatory bail – Appellant joined the investigation after he was granted protection against arrest by this Court – Investigation over, charge-sheet filed:

Held: Appellant granted anticipatory bail. [Para 8]

List of Acts

Penal Code, 1860; Code of Criminal Procedure, 1973.

List of Keywords

Anticipatory bail; Protection against arrest; Cheated under the pretext of marriage.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 812 of 2025

From the Judgment and Order dated 23.08.2024 of the High Court of Gujarat at Ahmedabad in CRMA No. 16462 of 2024

Appearances for Parties

Virat Popat, Lokesh Kumar Choudhary, Advs. for the Appellant

Prashant Bhagwati, Ms. Swati Ghildiyal, Ms. Aastha Mehta, Anshuman Srivastava, Advs. for the Respondents.

Digital Supreme Court Reports**Judgment / Order of the Supreme Court****Judgment**

1. Leave granted.
2. The present appeal arises out of the impugned judgment and order dated 23.08.2024, passed by the High Court of Gujarat at Ahmedabad in R/ Criminal Misc. Application (for successive anticipatory bail) No. 16462 of 2024, whereby the High Court had rejected the said application, filed by the present appellant, seeking anticipatory bail in connection with the F.I.R. No. 11203024220505 dated 16.07.2022, registered at Police Station-B-Division, District-Junagadh, for the offence punishable under Sections-493 and 376(2)(n) of the Indian Penal Code (for short 'IPC').
3. Heard learned counsel appearing for the parties and perused the material on record.
4. It is sought to be submitted by the learned counsel, Mr. Virat Popat, appearing for the appellant, that the appellant had married the prosecutrix (respondent no.2) at the age of 47 years, and it was the third marriage of both the parties i.e. the appellant and the prosecutrix. He further submitted that the appellant has joined the investigation after he was granted protection against his arrest by this Court vide the order dated 01.10.2024.
5. Learned counsel appearing for the respondent-State, relying upon the additional affidavit filed by the Investigating officer, submitted that the investigation is over, and as per his instructions, the charge-sheet has already been filed in the case.
6. Learned counsel, Ms. Aastha Mehta, appearing for respondent no.2 (prosecutrix), however, has objected to the granting of the anticipatory bail to the appellant by submitting that the appellant had cheated the respondent no.2 (prosecutrix) under the pretext of marriage. She further submitted that their marriage was also not registered, however they had married as per their customs.
7. Having regard to the submissions made by the learned counsels appearing for the parties and to the fact that now the charge-sheet has already been filed but, without expressing any opinion on the merits of the case, we are inclined to accept the present appeal.

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8. Hence, it is directed that in the event of the arrest of the appellant, in connection with the F.I.R. No. 11203024220505 dated 16.07.2022, registered at Police Station-B-Division, District-Junagadh, he shall be released on bail, if not required in any other case, on such terms and conditions that may be imposed by the Trial Court. He shall continue to co-operate with the investigation.
9. It goes without saying that the respondent-State shall be at liberty to file appropriate application seeking cancellation of bail in case any of the conditions, that may be imposed by the Trial Court, are violated or breached by the appellant.
10. Accordingly, the appeal is allowed.
11. Pending application(s), if any, shall stand closed.

Result of the case: Appeal allowed.

[†]*Headnotes prepared by:* Divya Pandey