

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.962 OF 2022
(@ SLP(CRL.) No.5326 OF 2022)

ANSAAR MOHAMMAD

APPELLANT(S)

VERSUS

THE STATE OF RAJASTHAN & ANR.

RESPONDENT(S)

O R D E R

Leave granted.

The challenge in the present appeal is to an order passed by the High Court on 19.05.2022 whereby, an application for pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 for the offences under Sections 376(2)(n), 377 and 506 IPC was dismissed.

It is the admitted case of the complainant that she was in a relationship with the appellant for a period of four years. It is admitted by Mr. Himanshu Sharma, learned counsel for the respondent No.2/complainant that when the relationship started, she was 21 years of age.

In view of the said fact, the complainant has been staying willingly with the appellant and had the relationship. Therefore, now if the relationship is not

working out, the same cannot be a ground for lodging an FIR for the offence under Section 376(2)(n) IPC.

Consequently, we allow the present appeal and set aside the order of the High Court.

In the event of arrest, the appellant shall be admitted to bail to the satisfaction of the Arresting Officer and that the appellant shall co-operate in the pending investigation.

It is made clear that the observations in the present order are only for the purposes of deciding the pre-arrest bail application. The investigation shall proceed uninfluenced by the observations made in the present order.

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

.....J.
[HEMANT GUPTA]

.....J.
[VIKRAM NATH]

NEW DELHI;
14th JULY, 2022

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In view of the said fact, the complainant has willingly been staying with the appellant and had the relationship. Therefore, now if the relationship is not

working out, the same cannot be a ground for lodging an FIR for the offence under Section 376(2)(n) IPC.

Consequently, we allow the present appeal and set aside the order of the High Court.

The appellant is ordered to be released on bail to the satisfaction of the competent authority.

It is made clear that the observations in the present order are only for the purposes of deciding the pre-arrest bail application. The investigation shall proceed uninfluenced by the observations made in the present order.

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

.....J.
[HEMANT GUPTA]

.....J.
[VIKRAM NATH]

NEW DELHI;
14th JULY, 2022

ITEM NO.36 **REVISED** COURT NO.9 SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 5326/2022

(Arising out of impugned final judgment and order dated 19-05-2022 in SBCRMBA No. 5890/2022 passed by the High Court Of Judicature for Rajasthan at Jaipur)

ANSAAR MOHAMMAD **Petitioner(s)**

VERSUS

THE STATE OF RAJASTHAN & ANR. **Respondent(s)**

(FOR ADMISSION and I.R. and IA No.80697/2022-EXEMPTION FROM FILING O.T.)

Date : 14-07-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE VIKRAM NATH

For Petitioner(s) Mr. Arjun Singh Bhati, AOR

For Respondent(s) Mr. Himanshu Sharma, AOR
Ms. Aditi Sharma, Adv.
Mr. Seeta Ram Sharma, Adv.
Mr. Ram Niwas Sharma, Adv.
Mr. Vinay Kumar, Adv.
Mr. Sandeep Singh, Adv.
Mr. Saurav Arora, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

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

(SWETA BALODI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Revised signed order is placed on the file)

ITEM NO.36

COURT NO.9

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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(SWETA BALODI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file)