

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 768 OF 2015
(For Anticipatory Bail)

Ilyas Beg .. Applicant

Versus

The State of Maharashtra .. Respondent

Ms. Anjali Patil, Advocate for the applicant

Mrs. A. A. Mane, APP for the State

Mr. Joheb Shaikh, I.O., PSI of Malwani Police Station, present in Court.

CORAM:-V. L. ACHLIYA, J.

DATED : -02/06/2015

VACATION COURT

P.C.

Heard learned counsel for the applicant and learned APP for the respondent-State. Perused the application, copy of FIR, copy of the papers of the investigation produced by the Investigating Officer (I.O.) and the order passed by Addl. Sessions Judge, Mumbai. Copy of the FIR tendered is taken on record.

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In nutshell, it is the contention of learned counsel for

the applicant that there is a likelihood of arrest of the applicant on the basis of false complaint filed by the complainant, who is the wife of applicant's son. The marriage between the complainant and the applicant's son took place in the year 2008 and since her marriage she was residing in India. Her husband used to come to India to stay with her for sometime. The applicant's son is residing in Bahrain. It is contended that the applicant is a retired police personnel. He has served in the police department of Bahrain and he is a citizen of Bahrain. The applicant and his wife had come to India to settle the dispute between the complainant and their son.

3 The learned APP has opposed the application with contention that the main accused in the case i.e. the son of applicant is residing in Bahrain. He is not making himself available for investigation. The learned APP further submits that the applicant has no permanent residence in the city of Mumbai. as well as in India. He is a citizen of Bahrain and, therefore, in the event of grant of anticipatory bail, there is every likelihood that the applicant may abscond and he will not be available for trial, in the event, the charge-sheet is filed.

4 Having regard to the submissions advanced and allegations made in the FIR, I am of the view that custodial interrogation of the applicant is not required. The Sessions Court has granted anticipatory bail to the wife of the applicant and refused to applicant though the allegations made against the applicant and his wife are similar. Although the learned Addl. Session Judge has observed that custodial interrogation is required in the mater, but perusal of the FIR reflects that there is nothing to be recovered from the applicant. So far as the alleged Video clips are concerned, the same is not alleged to be with applicant. The entire allegations made in that regard are against the son of the applicant, who is not applicant before this Court. The allegations made in the complaint reveals that the complaint is filed on account of matrimonial dispute between the complainant and her husband. Although the offence u/s 377 of IPC and 66(e) of Information and Technology Act are registered but on the face of FIR no such offence alleged to be committed by present applicant. The allegations made in the complaint reveals that the allegations of the complainant are mainly against her husband.

5 The complaint is filed in the year 2015, wherein the complainant has alleged that she was ill-treated and harassed during the period 22/12/2008 to 30/8/2014. During the intervening period no such complaint was made against applicant.

6 Having regard to the nature of the allegations made in the complaint and further taken into consideration that in a case based upon identical facts and same accusation the co-accused has been ordered to be released by the Sessions Court. I am of the view that the applicant also deserves to be granted anticipatory bail. I am, therefore, inclined to allow this application and pass the following order.

a) In the event of arrest of the applicant in C.R. No. 309/2015 registered on 20/5/2015 for offences u/s 498A, 377, 406, 104,506 r/w 34 of IPC and Section 66(e) of Information and Technology Act, with Malwani Police Station, the applicant be released on bail on his furnishing bail in the sum of Rs.15,000/- with one surety in like amount on following conditions;

i) The applicant shall appear before the I.O. from 10th of June, 2015 to 12th of June, 2015 in

between 11 a.m. to 4 p.m. and thereafter the applicant shall attend the police station as and when required for further period of one week thereafter for the purpose of investigation and on receipt of written intimation from Investigating Officer.

- ii) The applicant shall not leave the country without the prior permission from this Court.
- iii) The applicant shall not contact or pressurize the complainant and other prosecution witnesses.

7 With this Order and direction the application be marked as disposed of.

(V. L. ACHLIYA, J.)

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