

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.508 OF 2016

GANESH TUSHIRAM NIKUMBH)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Smt.S.R.Gaidhani, Advocate for the Applicant.

Shri S.H.Yadav, APP for the Respondent – State.

Shri B.V.Avasare, H.C./1965, Kalyan Taluka Police Station, present in court.

CORAM : P N. DESHMUKH, J.

DATE : 20th JUNE 2016.

P.C. :

1 Applicant Ganesh Nikumbh involved in Crime No.1-13 of 2016 registered with Kalyan Taluka Police Station under Sections 498A, 406, 323, 504, 506 read with Section 34 of IPC, has sought anticipatory bail in this crime registered on the basis of report lodged by Pallavi, wife of applicant.

2 Applicant is granted interim protection by this court vide its order dated 21st March 2016 which is in force till today.

3 From the contents of FIR, it is alleged that Pallavi was ill-treated by applicant as she was not maintaining good relations with the family members of applicant and was not doing household work. It is alleged that applicant was then demanding money from the father of complainant for purchasing separate house and accordingly, her father had provided monetary help to the extent of Rs.4,83,000/-. It is further alleged that when complainant got shifted in this new flat purchased on arranging Rs.4,83,000/- from her father, applicant's mother refused to give to complainant her ornaments. It is alleged that in the year 2011, applicant and the complainant were blessed with one son, while family members of applicant used to visit complainant to her flat and used to abuse her saying that she had separated applicant from his joint family. Accordingly, on 14th January 2016, report came to be lodged by Pallavi and offence as aforesaid came to be registered.

4 The investigation is in progress. Learned APP on obtaining instructions from the Investigating Officer has made a statement that no investigation, with reference to alleged payment of Rs.4,83,000/- made by father of complainant to the applicant, is carried out, nor anything revealed from the investigation with reference to applicant's mother refusing to part away with complainant's jewellery as stated in the report.

5 Learned counsel for the applicant on the other hand had come out with a specific case that applicant was married to Pallavi sometime in May 2007 and for a period of about one year or more, stayed in the joint family, when in the year 2008-09 applicant purchased separate flat, who was working as an interior decorator and was thus required to remain out of house for almost whole day. It is the case of applicant that, in that period, Pallavi came in contact with one Paresh Potdar, residing in the same locality, and Pallavi during that period had started beauty parlour in her flat and developed love affair with Paresh and since then

started misbehaving with the applicant. Learned counsel has submitted that during this period Pallavi, on one occasion, had committed assault on applicant by scissors, had threw tea on the applicant and had committed theft of money of applicant. However, applicant admittedly has not filed any complaint contending that till that time applicant was not aware of her love affair with Paresh, and thus he did not take any steps. However, it is only in October 2015 when applicant learnt from the neighbourhood that Pallavi had developed some sort of relations with Paresh, he directly confronted Paresh, when Paresh admitted to have affair with Pallavi, and also informed applicant that Pallavi was forcing him to get married.

6 From the documents filed with the application, infact it reveals that Pallavi had pledged her gold ornaments to obtain loan of Rs.65,000/- for purchasing two wheeler which from other documents appears to be used by Paresh Potdar.

7 In that view of the matter, since complainant Pallavi appears to have obtained loan on pledging her jewellery, as aforesaid, contents in her report about her mother-in-law refusing to part away with her gold jewellery does not appear to be reliable.

8 From further documents infact it appears that applicant on 10th November 2015 had lodged report against Pallavi contending that after Pallavi left his house and was staying at her parents home, one day she all of a sudden arrived and entered the flat by obtaining duplicate keys. Thereafter, on 20th November 2015 applicant again lodged report against Paresh as he had illegally and deliberately changed the registered number plate of two wheeler though had returned back said vehicle to applicant and on 9th December 2015 had also made report to Women and Child Development Department of Maharashtra against Pallavi, and on 2nd January 2016 to Titwala Police Station against Pallavi and her father Daulat Shinde. Learned APP on instructions from Investigating Officer had submitted that no investigation is carried out on these reports.

9 From further documents it further reveals that Pallavi infact had registered herself at Shaadi.com and Kiran Pawar, co-brother of applicant has filed an affidavit before the trial court in support of anticipatory bail application stating that Pallavi had lodged a false complaint.

10 Learned counsel for the applicant during the course of arguments had tendered at bar a copy of FIR No.I-116 of 2016 registered with Kalyan Police Station on 4th May 2016 lodged by Ganesh Potdar, father of Paresh Potdar against Pallavi, wife of applicant, on the basis of which offence under Section 306 of IPC is registered against her alleging that Paresh committed suicide by jumping into river in the night of 4th March 2016 and prior to that he along with Pallavi had visited Shirdi and on returning back had informed his father that Pallavi was insisting to marry. The copy of FIR is taken on record marked “X” for identification.

11 Having considered the facts as aforesaid, though investigation is said to be in progress, I find no reason to have

custodial interrogation of the applicant. Infact, it appears that no investigation is carried with regard to contents of complaint lodged by Pallavi with reference to applicant's alleged demand of Rs.4,83,000/- and applicant's mother's refusal to part away with complainant's jewellery. Similarly, no investigation is carried out with reference to various complaints filed by applicant against Pallavi.

12 Having considering the facts as aforesaid, interim protection granted to applicant stands confirmed with directions to applicant to attend Investigating Officer as and when called till the filing of charge-sheet.

(P. N. DESHMUKH, J.)