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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.655 OF 2016

Mohamed Faizan Memon	 Applicant
V/s.	
The State of Maharashtra and anr	 Respondents

Mr. A. P. Mundargi, Senior Advocate I/by Supriya Kak, for the Applicant.

Mrs. Veera Shinde, APP for the Respondent State.

Mr. Shreyas S. Adyanthya, a/w Mr. Ashutosh C. Gavnekar, for the intervener.

CORAM : A. M. BADAR, J.

DATE : 20th JULY, 2016.

P.C. :

1. The applicant/accused in crime No.33 of 2016, registered with Khadak Police Station, Pune, for the offence punishable under Sections 313, 323, 325, 406, 498A, 504, 506, 120(b) r/w 34 of the Indian Penal Code, at the instance of informant Afreen Faizan Memon, by this application, is seeking pre-arrest bail.
2. Heard the learned Senior Counsel, for the applicant/accused, learned APP and the learned counsel for the intervener.
3. Learned Senior Counsel submitted that so called abortion in the year 2014, had occurred because of Contraceptive Method adopted

by the couple, but subsequent story of forced abortion is made out. The learned Senior Counsel further argued that for remaining averments in the F.I.R. custodial interrogation of the applicant is not warranted.

4. I heard the learned APP. She passed over documents i.e. Medical Papers of the informant and submitted that there was abortion of the informant at the instance of the present applicant.

5. The learned counsel for the informant submitted that as the informant accessed the face book account of the applicant, the applicant used to beat her mercilessly. My attention is drawn to the photocopy of relevant pages of the face book account of the applicant, so also to the photographs of the informant reflecting beating. The chit allegedly written by the present applicant giving undertaking that he will not beat the informant or raise voice at her is also pointed out. It is argued that the informant took shelter of her parental house at Pune and admitted her daughters to the school at Pune. However, after seeking interim anticipatory bail, as per version of the informant, the applicant again started harassing her by writing letter to the Principal of said school informing that his daughters are admitted without obtaining the School Leaving Certificate of the previous school from Goa. It is argued that the applicant exerted pressure on school at Goa, so that the informant should not get School Leaving Certificate of her daughters from the school at

Goa. Ultimately in a proceeding under Protection of Women from Domestic Violence Act, an order is required to be obtained by the informant directing school at Goa to give School Leaving Certificate to daughters of the informant. My attention is also drawn to the report lodged by present applicant with police at Goa. It is submitted that the applicant is harassing the informant by adopting various tactics.

6. Perused the papers of investigation including F.I.R. lodged by the informant.

7. The informant alleged in her F.I.R. that on 24.10.2015, she married the present applicant. At the time of her marriage, there was demand of Rs.1 crore towards dowry. However, parents of the informant had given gold ornaments weighing 35 tolas apart from bearing the expenses of marriage. The informant further averred that in the year 2009-10, she gave birth to two female children. In the year 2012, she delivered a male child. She again become pregnant in the year 2014, but at that time, applicant assaulted and illtreated her causing her abortion on 15.1.2014. The informant further averred that at the instance of the applicant she drank glass full of juice, and she came to be aborted on 19.12.2014. According to the informant, at the time of marriage of her sister, the applicant demanded Rs.19 lacs from her parental relatives. She further alleged that she is driven out of house by the present applicant by

taking her signatures on few blank papers and on few stamp papers. According to the informant, the applicant used to insult her in front of her relatives, and he used to extend threats of divorce to her apart from beating.

8. Careful perusal of F.I.R. as well as papers of investigation shows that alleged incidents of forced abortion are of the year 2014. The papers of medical treatment of the informant go to show that at the relevant time, she was using I.U.D. as contraceptive device and with such device she was found to be pregnant. Subsequently in December, 2014, the informant is attributed to abortion to glass of juice offered by the applicant and accepted by her. The F.I.R. conspicuously is silent about the date of parting the company of applicant. Beatings alleged against the present applicant are of the year 2012, 2013 and 2014.

9. Perusal of the complaint to the School at Pune, show that the applicant had pointed out that his daughters are admitted to the school without School Leaving Certificate from previous School. Filing of the report by the husband against the wife prima facie cannot be termed as misuse of liberty while on anticipatory bail. Suffice to state that the act of alleged cruelty are of the year 2014, as well as earlier to that.

10. The learned counsel for applicant relied upon unreported

order of Kolkata High Court, passed in C.R. M. No.7976 of 2013 **Bikash Nayak & anr -vs- Unknown** and another order of Kolkata High Court in C.R.M. No.16117 of 2014 **Biswajit Mandal & ors – Arijit Ghosh**. Those orders proceeded on their own facts without laying down any ratio.

11. Considering this nature of allegations against the present applicant, his custodial interrogation is not warranted and apprehension of the informant wife that the applicant would further harass her can be taken care by imposing stringent conditions as such. In view of this application is allowed by following order.

Order

- I) In the event of arrest of the applicant, in above crime, he be released on bail on his executing P.R. Bond in the sum of Rs.15,000/- and on his furnishing surety in the like amount.
- II) The Applicant should not contact the informant in any manner.
- III) The Applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) The Applicant shall attend the concerned police station on 7th August, 14th August and 21st August, 2016, in between

11.00 a.m. to 1.00 p.m., and shall co-operate the Investigating officer.

V) The applicant shall not tamper with the prosecution evidence in any manner.

[A. M. BADAR, J.]