

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1407 OF 2016

Mr. Shivraj Uday Pednekar	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Niranjan Mundargi a/w Mr. Chandarsingh Shekhawat i/b. ALMT Legal,
for the applicant.

Ms. Veera Shinde, APP, for the State.

Mr. Mr. S.M.Nikam, PSI Warje Malwadi Police Station present.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 18th August, 2016.

P.C.

1. Heard the learned counsel for the applicant and the learned APP for the State. Perused the papers of investigation..
2. This is an application under Section 438 of Cr.P.C. The applicant herein happens to be the husband of the first informant. The applicant was married to the first informant on 29.4.2002. The couple is blessed with a daughter who is about 13 years old.
3. It appears that a discordant note had struck between the couple. On 27.12.2014, she had lodged a report at Warje Malwadi Police Station against the present applicant. It is alleged that initially, they were residing in a joint family. That the informant could not get along with the members

of her matrimonial family. That in the 7th month of pregnancy, her father had taken her to her maternal house. After about a week, the applicant had also started residing with her parents and was demanding money for purchasing a car. That he had physically assaulted her. That they were residing at Aurangabad for some time and thereafter they returned to Pune after a year. That in the year 2009, her father had expired and therefore, she had visited her maternal house. However, her husband had not insisted upon her to return to the matrimonial house. he had informed her that he is at Singapore. He had also informed her that she should take rented premises and that he would pay the rent and, therefore, she started residing in Karishma Housing Society, Kothrud. According to her, the applicant had visited her only on one occasion. She had insisted upon him to return her ornaments and at that time, he had assaulted her. Thereafter, in the year 2011, she had started residing in Golden Petals, Karve Nagar, Pune. He had visited her in January 2014 and had insisted upon her to transfer the shop and residential premises of her mother in his name. He had also informed her that he has got married to Renu Dhruv. She had also learnt that Renu has begotten a baby girl from the said wedlock.

4. On 26.4.2016, the complainant i.e. wife of the applicant had lodged a n FIR against the applicant alleging therein that since 2014, she was

residing in Golden Palates at Karve Nagar along with her husband. His friend Ajay Tripathi was also residing along with them at the behest of the applicant. It is alleged that Ajay Tripathi had misbehaved with the informant and had touched her inappropriately. She had complained to the present applicant about the said behaviour. However, he had ignored the same. There is an allegation that Ajay Tripathi had misled her and had taken her to U.P. to see the second wife of the present applicant. That he had threatened her and under threat and coercion, had committed sexual intercourse with her. It is also alleged that Ajay Tripathi had disclosed to her that he along with the applicant had fitted cameras in the residential premises and that he had recorded the acts between the informant and the applicant and that he would reveal the same on social media. On the basis of the said report, Crime No.205 of 2016 registered with Warje Malwadi Police Station, Pune, against the present applicant and Ajay Tripathi for the offences punishable under Sections 376(2), 323, 384, 387, 504, 506, 506(2), 507 read with Section 34 of IPC and under Section 66(E) of the Information Technology Act, 2005. It is a matter of record that in the earlier application, Ajay Tripathi was the witness in the offence punishable under Section 498A of IPC.

5. The learned counsel for the applicant submits that in fact, Ajay

Tripathi was the bone of contention as the informant had solicited divorce from the applicant as she had developed intimacy with Ajay Tripathi. Be that as it may, the said contention should not be considered at this stage.

6. It is a matter of record that in the first FIR itself, the complainant has alleged that the applicant had got re-married. That she had learnt about the second marriage through the friend of her brother. It does not indicate that the present applicant was residing with his wife at that particular time. In any case, there are specific allegations against Ajay Tripathi who is reported to be absconding.

7. Taking into consideration the nature of allegations and the papers of investigation, the applicant deserves to be granted pre-arrest bail.

However, it is made clear that the observations made hereinabove are prima facie in nature and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial since the observations are restricted to the application under Section 438 of Cr.P.C.

ORDER

- (i) The application is allowed.
- (ii) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in

the like amount.

(iii) The applicant shall report to the concerned police station on every Saturday between 10 a.m. and 12 noon and co-operate with the investigating agency.

(iv) The applicant shall furnish the cellphone number of Ajay Tripathi and the address of Ajay Tripathi and all other details as required by the Investigating Officer.

(v) The applicant shall not leave the country without prior permission of the Court.

The application is allowed and stands disposed of.

(SMT.SADHANA S.JADHAV, J.)