IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 524 OF 2019

Imamuddin Saiuddin Ansari ... Applicant
V/s.
The State of Maharashtra ... Respondent

WITH
CRIMINAL APPLICATION NO. 343 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO. 524 OF 2019

Nusrat Imamuddin Ansari ... Intervener

In the matter between
Imamuddin Saiuddin Ansari ... Applicant
V/s.
The State of Maharashtra ... Respondent

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Mr. Aslam Malik for the Applicant.
Mrs. G.P. Mulekar, APP for the Respondent.
Mr. Salman Khan for the Intervener.

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CORAM : PRAKASH D. NAIK, J.

DATE : 6th MARCH, 2019.

P.C.:

1. The applicant is apprehending arrest in connection with C.R. No. 25 of 2019 registered with Nizampura Police Station, Bhiwandi,

Dist. Thane. The First Information Report (hereinafter referred to as 'FIR' for short) was registered on 22nd January, 2019 for offence punishable under Section 498 (A), 406, 323, 504 and 506 of Indian Penal Code (hereinafter referred to as 'IPC' for short) and Sections 3 and 4 of Dowry Prohibition Act.

2. The applicant preferred an application for Anticipatory Bail before the Sessions Court which was rejected vide order dated 8th February, 2019. The co-accused were however granted Anticipatory Bail.

3. The case of the prosecution is that complainant is legally wedded wife of the applicant. The marriage was solemnised on 24th December, 2012. Two children were born out of the said wedlock. The other accused are in-laws of the complainant. During the marriage as per demand of accused 10 tolas Gold ornaments, articles and motorcycle was given by parents of complainant as dowry. It is alleged that the accused had demanded money from the complainant to be brought by her parents. The demand was not fulfilled and consequently the complainant was ill-treated physically and mentally. The accused misappropriated the ornaments given to

complainant during the marriage by her parents. The complainant was abused and assaulted. The applicant was in relationship with another women. On 20th October, 2013, daughter was born. In the year 2015, complainant was pregnant. Anticipating that complainant would give birth to second daughter. She was forced to consume pills which resulted in abortion. She was again pregnant for third time and she was taken to hospital for abortion. She managed to leave the hospital. On 18th March, 2016, complainant gave birth to second daughter. She was abused and taunted for giving birth to girl child. In the year 2016, complainant was again pregnant. She was given pills under coercion which resulted in abortion. On 8th September, 2018, complainant was dropped to her parental home. The FIR was lodged on 22nd January, 2019.

4. Learned Advocate for the applicant submitted that the applicant has been falsely implicated in this case. The dispute arises out of matrimonial discord. The marriage was performed in the year 2012. Whereas, the FIR was lodged on 22nd January, 2019. The allegations with regards to forced abortion is totally false. The allegation that the pregnancy was terminated anticipating of birth of girl child is frivolous as the alleged termination had occurred in the

year 2015 and the second daughter was born on 18th March, 2016. The allegations that the complainant was being forced to undergo abortion in the year 2016 but she managed to avoid the same as she ran away from the hospital is concocted. The FIR was lodged belatedly.

5. Learned APP submitted that the applicant had subjected the victim to cruelty. There was demand of dowry, various articles were given to the complainant during the marriage, by her parents. There is misappropriation of gold ornaments. The complainant has lodged N.C. complaint against applicant regarding threats issued to her on 11th February, 2011. Two other N.C. complaints are lodged by other persons against the applicant. The application for Anticipatory Bail was also opposed by the intervener/complainant. Learned Advocate for the intervener supported the submissions advanced by the learned APP. It is submitted that the offence is of serious nature. The applicant accused is in relation with another women. The complainant was subjected to cruelty. She was forced to undergo abortion. It is submitted that the complainant was threatened by the applicant on 11th February, 2019 and hence N.C. complaint was registered with Nizampura Police Station, Bhiwandi, Dist. Thane, on

22nd February, 2019. Hence, it is prayed that the application be rejected.

6. I have perused the documents on record, the FIR arises out of the matrimonial differences. It is alleged that in the year 2015, the victim was given some pills for consumption which has resulted in abortion. The accused were apprehending that she would deliver a baby girl. It is also alleged that in the year 2016, there was a attempt to force the complainant to under go abortion in the hospital. There is no evidence to corroborate the allegation. The second daughter was born in March, 2016. There was no complaint with regards to forced abortion. The alleged incidents are of 2015 and 2016. Although the attempt as alleged in the year 2016. The FIR was lodged in February, 2019. The co-accused who were also attributed similar allegations are granted Anticipatory Bail. The N.C. complaint referred by the intervener is with regards to the alleged threats. The incident had allegedly occurred on 11th February, 2019 and the N.C. allegedly recorded on 22nd February, 2019. It refers to abuses, health of the children and demand of custody of the children. In the light of the aforesaid factual matrix, the custodial interrogation of the applicant is not necessary.

7. Hence, I pass the following order:

ORDER

(i) Anticipatory Bail Application No.524 of 2019 is allowed and disposed of.

(ii) In the event of arrest of the Applicant in C.R. No. 25 of 2019 registered with Nizampura Police Station, Bhiwandi, Thane, the Applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount.

(iii) The Applicant shall report to the Investigating Officer once in a week i.e. on first Saturday of the month between 11:00 am to 01:00 pm till filing of the Charge-sheet.

(iv) In view of disposal of the Anticipatory Bail Application, Intervention Application being Criminal Application No. 343 of 2019 stands disposed of.

(**PRAKASH D. NAIK, J.)**