

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1381 OF 2019

Mangesh Balasaheb Jagtap

.... Applicant

versus

The State of Maharashtra

.... Respondent

.....

- Mr.Vikas B. Shivarkar, Advocate for Applicant.
- Mr.Prashant Jadhav, APP for the State/Respondent.
- Mr.S.N. Mahajan, ASI, Saswad Police Station, Pune present.

CORAM : SARANG V. KOTWAL, J.

DATE : 28th JUNE, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 315/18 registered with Saswad Police Station, under sections 498A, 313, 323, 504, 506 read with 34 of the Indian Penal Code.
2. The FIR is lodged by the first informant on 30th August 2018. According to her, she got married with the applicant on 19th February 2016. She had lost her father in the year 2013 and thereafter she was looked after by her maternal uncle, who had

spent for her marriage expenses. It is mentioned in the FIR that after few days after marriage, the family members of the applicant and the applicant himself started ill-treating her. She was residing with parents and brother of the applicant. The FIR refers various allegations in respect of her ill-treatment. In November 2016, she was pregnant. It is mentioned in the the FIR that the applicant, his parents and his brother's wife demanded Rs. 5 lacs from the informant. The first informant declined to accede to their request. Therefore, she was assaulted. It is her case that on 31st January 2017 and couple of days thereafter the family had consumed sugarcane juice. On the 3rd day, the first informant was alone given the juice. She suffered from nausea because of that. The applicant and others told her to take the medicines given by the doctor. During the night, she started having pain in her stomach. However, the applicant did not pay any attention and did not take her to the doctor. It is her case that in the night she suffered abortion. On the next day applicant and others took her to the doctor. The doctor told her to take rest. After a couple of days, the applicant

dropped the informant to her maternal uncle's place and since then there was no co-habitation. On these allegations FIR is lodged.

3. At the outset Mr. Shivarkar has produced a copy of the marriage petition no. 880/17 pending before Civil Judge Senior Division, Pune. That petition is filed on 6th July 2017 by the present applicant for seeking divorce on the ground of cruelty on the part of the first informant. A copy of the said application is taken on record and marked 'X' for identification. The copy is certified as true copy by the learned advocate for the applicant. Mr. Shivarkar submitted that the divorce petition was filed in July 2017 and notice for the same is served on the first informant on 27th August 2018. Therefore, he submitted that the FIR is clearly lodged as a counter-blast to his divorce petition.

4. As against that, the learned APP submitted that the offence is serious and the applicant does not deserve any leniency of protection of anticipatory bail.

5. Perusal of the FIR shows that there are general allegations which may amount to the offence under Section

498A of the IPC. Those allegations are also made against other accused, who are granted anticipatory bail by the court of Sessions, Pune. The main serious allegation against the present applicant is in respect of Section 313 of IPC. However, perusal of FIR shows that the whole family had consumed sugarcane juice on two days. Though on the 3rd day the first informant alone was given sugarcane juice by her husband. In the night when she had suffered cramps in her stomach, the applicant did not take her to the doctor. The FIR shows that the applicant had acted negligently. Whether that act amounts to offence or not is the subject matter of the trial. The significant fact in this matter is that since the date of incident, the first informant made no such grievance till the FIR was filed after more than one and a half year. The timing of filing of the FIR is also important as the FIR was lodged after she had received a copy of the marriage petition. Therefore, at this stage, there is scope to infer that the present applicant is arraigned as the main accused because of the matrimonial dispute. In this backdrop, custodial interrogation of the applicant is not necessary. He deserves the

protection of anticipatory bail. However, he is directed to co-operate with the investigation. Hence, the order:-

ORDER

- (i) In the event of his arrest in connection with C.R. No.315/18 registered with Saswad Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The applicant shall attend the police station on and when called and shall co-operate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)