

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Criminal Anticipatory Bail Application NO. 2031 OF 2019

Sagar Bhagwat Marale

...Applicant

Versus

The State Of Maharashtra

...Respondent

....

Mr. Vaibhav R. Gargade, Advocate for the Applicant.

Mr. Prashant Jadhav, APP, for the Respondent-State.

Mr.S.D. Dhotre, PSI, Walchandnagar Police Station is present in Court.

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CORAM : SARANG V. KOTWAL, J.

DATE : 19th SEPTEMBER, 2019

P.C.

1. The applicant is seeking anticipatory bail in connection with C.R. No.352/2019 registered at Walchandnagar Police Station under Sections 498-A, 313, 323, 504, 506 read with Section 34 of I.P.C.

2. The applicant is the husband of the first informant. The first informant, in her FIR, has stated that she had got married with the applicant on 2.5.2013. She was residing with the applicant and his family consisting of his parents, brother and brother's wife. In the year 2014, the couple was blessed with a

daughter. However according to the informant, the applicant's family was not happy and they started ill-treating her. There are general allegations against the family members of the applicant that they were harassing her and that they were demanding a four-wheeler or Rs.3 Lakhs to purchase that four-wheeler. In the year 2018, she again became pregnant. It is her case that the applicant took her to a Nursing Home of Dr. Vishwanath Narute on 31.8.2018 and forcibly terminated her pregnancy. On this basis, the FIR is lodged.

3. I have heard Shri Gargade, the learned Counsel for the applicant and Shri Jadhav, the learned A.P.P. for the State. Learned Counsel for the applicant submitted that the applicant has initiated matrimonial proceedings for divorce before the Court at Baramati and after filing of this petition, the informant has chosen to file this FIR. He submitted that the alleged incident of abortion was dated 31.8.2018 and the FIR is lodged almost after a year i.e. on 14.8.2019. He submitted that there are no specific allegations of treating the informant with cruelty by the present applicant. He, therefore, submitted that the custodial interrogation of the applicant is not necessary.

4. Learned A.P.P. produced before me the papers of investigation carried out so far.

5. I have considered all these submissions and I have perused the papers of investigation produced before me. The investigation papers contain a statement of Dr. Vishwanath Narute, who has clearly stated that the applicant and the informant had approached him and they had jointly requested for procedure of abortion. The Doctor enquired with the informant by asking the applicant to leave the room. On exclusive questioning of the informant, the Doctor was satisfied that the informant herself was firm for procedure of abortion and only thereafter he had taken further steps. Thus, the statement of the Doctor is directly contrary to the allegations made by the first informant.

6. The FIR is lodged after a year from that date. As rightly pointed out by learned Counsel for the applicant, the FIR is a result of an afterthought and retaliation after the applicant had initiated matrimonial proceedings for divorce in appropriate Court.

7. There are no specific allegations against the present applicant of treating the informant with cruelty.

8. In this view of the matter, custodial interrogation of the applicant is not justified and he deserves protection of anticipatory bail. Hence, the following order :

O R D E R

- (i) In the event of his arrest in connection with C.R. No.352/2019 registered at Walchandnagar 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) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)