

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH, NAGPUR.**

**CRIMINAL APPLICATION (ABA) NO. 684 OF 2019**

Dr. Nikhil s/o Devrao Chavan .Vs. State of Maharashtra,through P.S.O, P.S.  
Awadhootwadi, Tq. and Dist. Yavatmal.

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Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's Orders.

Court's or Judge's orders.

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Mr. A.A. Naik, Advocate for applicant.

Mr. V.A. Thakare, A.P.P. for non applicant- State.

**CORAM : V. M. DESHPANDE, J.**

**DATED : NOVEMBER 18, 2019**

Heard Mr. Akshay Naik, learned counsel for the applicant and Mr. Vinod Thakare, learned Additional Public Prosecutor for the non applicant-State. Also perused the detailed reply filed on behalf of the prosecution and the investigation papers.

The applicant is apprehending his arrest in connection with Crime No.1003/2019 registered with Police Station, Awadhootwadi, Tq. and Dist. Yavatmal for an offence punishable under Sections 498A, 328, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 66E, 67 of the Information Technology Act and under Sections 3 and 4 of the Dowry Prohibition Act.

A crime is registered against the applicant and his parents with Police Station, Awadhootwadi in view of the order passed by the learned Judicial Magistrate First Class, Yavatmal on 08.07.2019 in the complaint filed by Rajani for

the offence punishable under Sections 498A, 328, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 66E, 67 of the Information Technology Act and under Sections 3 and 4 of the Dowry Prohibition Act.

The complainant Rajani was married with the applicant on 25.11.2017. The applicant's parents are the medical practitioners whereas the applicant is Physiotherapist. After marriage, the complainant started cohabitation with the applicant at Varadh Colony, Swami Savedi, Ahmednagar and they were residing till 22.08.2018.

It is the submission of the learned counsel for the applicant that on 22.8.2018, the complainant left her matrimonial house along with her father. Though various attempts were made to fetch back the complainant from her parental house, those were turn futile. Therefore, on 29.03.2019, the applicant issued a notice to the complainant and asked the complainant that she shall resume cohabitation. The record shows that prior to reply to the notice given by the applicant, as aforementioned the complainant issued notice to the father of the applicant Dr. Devrao Chavan wherein it is stated that a loan amount of Rs.10,00,000/- (Rupees Ten Lakhs) was given for construction of house and in discharge to the said liability, he issued cheques and when those cheques were presented by the complainant with her banker those were not honored because of the instructions given by the father of the applicant that the cheques should not be honored. After issuance of the said notice, as stated above, the reply to the

notice for cohabitation was given by the complainant denying all facts.

Be that as it may. Thereafter, the complainant filed a complaint wherein the allegations were made of torture, demand etc. against the present applicant and his parents culminating into registration of crime.

The investigation papers which were placed before this Court by the learned Additional Public Prosecutor shows that the complainant and the applicant are not pulling together and there is matrimonial discord. Along with application for anticipatory bail, the applicant has also annexed a copy of the petition filed on behalf of the complainant under Section 13(1)(ia) of the Hindu Marriage Act for dissolution of marriage and the said proceedings are pending.

The complainant's cohabitation with the applicant has ended on 22.08.2018 and since then she is residing along with her parents. But the allegations resulting into registration of offence are made only on 09.05.2019. In the light of factual matrix, the delay has its own impact on the prosecution case. Though it will be open for the prosecution to explain the same during the course of the trial. however, for considering the application for anticipatory bail it has already taken effect of.

On 07.10.2019, interim protection was granted by this Court to the applicant on a condition that he shall attend the police station and join the investigation and cooperate the investigating officer on the dates mentioned in

the order. Accordingly there is no dispute that the applicant has attended the police station and joined the investigation. The investigation papers also show that the applicant was interrogated and his statement is also recorded.

Looking to the fact that the applicant has already joined the investigation, *prima facie*, it appears that the birth to the criminal prosecution is due to the matrimonial discord in between husband and wife, in my view, the application can be considered favourably. That leads me to pass the following order :

**ORDER**

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.1003/2019 registered with Police Station, Awadhootwadi, Tq. and Dist. Yavatmal for an offence punishable under Sections 498A, 328, 323, 504, 506 read with Section 34 of the Indian Penal Code and under Section 66 (e), 67 of the Information Technology Act and under Sections 3 and 4 of the Dowry Prohibition Act, applicant – Dr. Nikhil s/o Devrao Chavan, be released on bail on he executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) Applicant is directed to attend Police Station, Awadhootwadi, Tq. and Dist. Yavatmal as and when he is called by the investigating officer. However, for that the investigating officer shall give clear cut three days prior written communication to to the applicant.

(iv) With this, the criminal application is allowed and disposed of.

**JUDGE**

*srwagh*