

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 351 OF 2020

Dattatray Subhash Khomne .. Applicant
Age. 32 years, Occ. Service,
R/o. Ambedkar Wasahat, DP Road,
Near Mahila Rozgar Hall, Aundh,
Pune.

VERSES

The State of Maharashtra .. Respondent
Through MIDC Waluj Police Station,
Dist. Aurangabad.

Mr. Abhijeet T. Wiitore, Advocate for the applicant.
Mr. V. M. Kagne, APP for the respondent/State.

**CORAM : V. L. ACHLIYA, J.
DATED : 27.10.2020**

P.C. :-

01. The applicant apprehending arrest in Crime No. 42 of 2020, registered with MIDC Waluj Police Station, Dist. Aurangabad for the offences punishable under sections 498-A, 323, 504, 506 read with section 34 of the Indian Penal Code and under section 3 & 4 of the Dowry Prohibition Act, has preferred this application seeking pre-arrest bail.

02. Heard learned Counsel for the applicant and learned APP. Perused the order dated 28.02.2020 passed

by the learned Additional Sessions Judge, Aurangabad, rejecting the application of the applicant and allowing the application filed by co-accused i.e. accused Nos. 2 to 4.

03. In brief, it is contention of the learned counsel for the applicant that the complaint filed is false, frivolous and filed after due deliberation. It is submitted that as per version of the incident given in the FIR, the informant alleged to have been driven out from the house of the applicant on 02.10.2019. The complaint has been filed on 23.01.2020. The allegations made in the complaint are vague and general in nature. The marriage between the applicant and the informant was solemnized in the year 2012. There was not a single complaint against the applicant during the intervening period of 7-8 years of marriage. It is further submitted that the applicant is serving in KEM Hospital, Pune. He has no past record of indulging into criminal activities. The arrest of the applicant would spoil his entire life and service career. It is further submitted that in the facts and circumstances of the case, custodial interrogation of the applicant is not required.

04. On the other hand, learned APP opposed the application with contention that the allegations made in

the complaint prima facie disclose the case of commission of offence punishable under sections 498-A, 323, 504 and 506 of the Indian Penal Code as well as sections 3 and 4 of the Dowry Prohibition Act, 1961.

05. On due consideration of the submissions advanced, I am of the view that the applicant deserves to be extended protection under section 438 of the Criminal Procedure Code. Except the offence punishable under section 498-A of the Indian Penal Code and section 3 of the Dowry Prohibition Act, 1961, other offences registered against the applicant are bailable. The allegations made in the complaint spell out that the marriage between the informant and the applicant was solemnized in the year 2012. Since after the marriage there used to be friction between them. The informant left the matrimonial house of the applicant on 22.10.2019. The complaint in question has been lodged on 23.01.2020 i.e. after a period of about more than two months. The allegations made are vague and general in nature. In the light of delay in lodging complaint the possibility of complaint being filed with due deliberation with exaggerated version to rope in the applicant and his family members cannot be ruled out. It appears that attempt was made to resolve the matrimonial dispute between the applicant and the informant through

counseling by referring both of them to Counseling Center. There are two children born out of the wed-lock between the applicant and the informant. The arrest of the applicant would spoil further relationship between them. There is scope for reconciliation between the parties. In the facts and circumstances of the case, custodial interrogation of the applicant is not required. The grant of anticipatory bail to the applicant would not hamper the on-going investigation. I am, therefore, inclined to allow the application. Accordingly, following order is passed :-

O R D E R

- (i) The application is allowed.
- (ii) The interim bail granted vide order dated 15.10.2020 is made absolute on the same terms and conditions.
- (iii) The applicant shall attend the police station as and when directed by the Investigating Officer.
- (iv) The applicant shall not indulge into any act amounting to pressurizing the prosecution witnesses, causing threats to the informant and her family members.
- (v) In case, the applicant indulged into any act of causing threat to the informant or pressurizing the prosecution witnesses, the bail granted to the applicant shall be liable to be cancelled.

(vi) It is clarified that the observations made in the order are prima facie observations made for limited purpose to decide the present application and none of the observations made to be treated as observations made as to merit of the case of the prosecution against the applicant.

[V.L.ACHLIYA,J.]