

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.938 OF 2020

Amjad s/o Khadar Khan Pinjari = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT

Mr.GR Syed, Advocate for Applicant;
Mr.SP Tiwari, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 22nd October, 2020.

PER COURT:-

1. Present applicant is apprehending his arrest in connection with Cr.No.577 of 2020 registered with Nanalpeth Police Station, Parbhani, Dist. Parbhani for the offence punishable under Section 498-A, 504, 506 r/w. 34 of Indian Penal Code and Section 4 of Dowry Prohibition Act.

2. Heard learned Advocate Shri. G.R.Syed for applicant and learned Additional Public Prosecutor Shri. S.P.Tiwari for respondent State.

3. It has been vehemently submitted on behalf of applicant, after drawing attention of this Court to the contents of above-said FIR, that

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the applicant and informant got married on 29-04-2015. She states that she was treated properly for about 6 months after marriage and thereafter, the applicant and his family members started ill-treating her. She contends that she came to know that the applicant was previously married and his said marriage could not last. She came to know about the medical problem with the applicant. She has stated that there was illegal demand of Rs.50,000/- and on that count she was treated with cruelty. In fact, those allegations are imaginary. The Informant herself was also previously married and she had lodged a report against her ex-husband and his family members, contending that they had subjected her to cruelty for demand of Rs.5,00,000/-. Her earlier husband and his relatives have been acquitted by competent Court. The judgment of that case has been produced. Relatives of present applicant have been released on anticipatory bail, but application came to be rejected in respect of present applicant. The Applicant is innocent. He is under treatment. In fact, the informant had not made any complaint since marriage till 31-03-2020. Something went

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wrong in lockdown and she wants to harass applicant. It appears that she intended to extract money from applicant. No specific role is attributed to the applicant. The applicant has been implicated and, therefore, his custodial interrogation is not required.

4. Per contra, the learned Additional Public Prosecutor has strongly opposed the application and submitted that at this stage the investigation is incomplete. FIR discloses the name of the accused. The role attributed to him is that he subjected informant to cruelty. Therefore, custodial interrogation of the applicant is required.

5. In present FIR, the informant says that she was subjected to cruelty on the count that there was illegal demand of Rs.50,000/-. The applicant accepts that he was previously married so also he had knowledge about the earlier marriage of the informant. The applicant attempts to deny that the allegation in the FIR that he is an impotent, however, he states that treatment is going on. The informant alleges that she was assaulted by the

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applicant on 31-03-2020 and then he gave her triple talaq on the same day. The informant was then driven out of the house. She went to her parents house and gave complaint application to Redressal Cell, at Parbhani. The applicant and his family members did not come on three dates, but on the fourth date the applicant gave proposal to her for cohabitation. In fact, when the informant says that he had given triple talaq to her and in his application there is no denial to this fact, how he could have given that proposal for cohabitation. We can not draw inference that previous case by her against her ex-husband and others has resulted in acquittal and, therefore, this FIR is also false or concocted. The behaviour of the applicant will have to be considered. Therefore, taking into consideration all these aspects, case is not made out for grant of anticipatory bail. The application is, hereby, rejected.

(SMT. VIBHA KANKANWADI,J.)

BDV