

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

**ANTICIPATORY BAIL APPLICATION NO.1049 OF 2020  
[ABA/ST/7152/2020]**

Arif Abdul Latif Shaikh

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Karl P. Rustomkhan i/b. Rahul S. Arote, Advocate for the Applicant.

Mr. S. H. Yadav, APP for State/Respondent.

PSI S.A. Avhad, Mankhurd Police Station, I.O., is present.

\_\_\_\_\_  
CORAM : SARANG V. KOTWAL, J.

DATE : 22<sup>nd</sup> DECEMBER, 2020.

**P.C. :**

1. The Applicant is seeking anticipatory bail in connection with C.R.No.482/2020 registered at Mankhurd Police Station, Mumbai on 4.12.2020, under Sections 498-A, 323, 504, 506 of the Indian Penal Code and under Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015

2. Heard Mr. Karl P. Rustomkhan, learned Counsel for the Applicant and Mr. S. H. Yadav, learned APP for the State.

3. The FIR is lodged by one Farjana Aarif Shaikh. She has stated that she was a divorcee and she had two sons from her first

husband. Thereafter in the year 2016, she got acquainted with the present Applicant and they got married on 20.12.2016. The Applicant had a son from his earlier marriage as he was also a divorcee. After their marriage, they started residing together. But, the Applicant did not get along with the informant's two sons from the earlier marriage.

. It is alleged in the FIR that the informant had given her ATM card for getting it replaced because it was broken. The allegations are that the Applicant withdrew an amount of Rs.3,35,453/- by using that ATM card by putting his telephone number in the records of the bank. There are allegations that the Applicant mortgaged the informant's necklace for paying the security deposit for the room where they were residing. There are further allegations that he was ill-treating the informant's sons. On these allegations, the FIR is lodged.

Submissions :

4. Learned Counsel for the Applicant submitted that the necklace, which was mortgaged with the Bank, was redeemed and it was returned to the first informant. He submitted that the

allegations of using the ATM card by the Applicant cannot be true because that was the only bank account held by the informant and it was impossible to believe that she was not knowing the financial transactions from that account for a period of ten months from 1<sup>st</sup> January, 2017 to 1<sup>st</sup> October, 2017. He submitted that he had never ill-treated the informant's sons from her earlier marriage.

5. Learned A.P.P., on the other hand, submitted that the Applicant has taken away the informant's money, her necklace and had ill-treated her sons. The allegations amount to offence under Sections 498-A and 406 of IPC and all other Sections are also applicable. For all these reasons, he opposed grant of anticipatory bail to the Applicant.

Reasons :

6. I have considered all these submissions. The allegations of withdrawing amount in the year 2017 are made in the year 2020. These allegations are obviously made belatedly after the relations between the couple became strained. When they were residing together there was no allegation of misappropriation of that amount. Therefore, these allegations are

clearly an afterthought to implicate the present Applicant.

7. The FIR itself shows that after this amount was withdrawn in the year 2017, the informant had delivered their son on 12.3.2018. Thus, till then the relations were cordial. The necklace was mortgaged so that the security deposit could be paid for the room. This all was happening when the informant and the Applicant were still happily married. All these allegations are made by the informant after their relations became sour. In this view of the matter, it appears to be a domestic fight between husband and wife.

8. It is difficult to observe that any of the offences applied in this case are actually made out against the present Applicant. Custodial interrogation of the Applicant under these circumstances is not necessary. He, therefore, deserves protection of anticipatory bail.

9. All these observations are made strictly for the purpose of deciding this application and the trial Court shall not be influenced by any of the observations made in this order when the matter reaches the stage of trial.

10. Hence, the following order :

**ORDER**

- (i) In the event of his arrest in connection with C.R. No.482/2020 registered with Mankhurd Police Station, Mumbai, 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) Anticipatory Bail Application stands disposed of accordingly.

Digitally  
signed by  
Pradeepkumar  
P. Deshmane  
Date:  
2020.12.23  
13:50:24  
+0530

**(SARANG V. KOTWAL, J.)**

Deshmane (PS)