

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 246 OF 2021

Kishor s/o Shaligram Kadam,
Age : 39 years, Occu. Service,
R/o Savkheda, Tal. Amalner,
District Jalgaon

APPLICANT

VERSUS

1. The State of Maharashtra
2. The Superintendent of Police,
Jalgaon, District Jalgaon
3. Sau. Yogeshwari w/o Kishor Kadam,
Age : 22 years, Occu. Household,
R/o Sai Apartment, Room No202,
A-Wing, Hazi Malang Road,
Near Anmol Garden,
Kalyan (East), District Thane

RESPONDENTS

Mr. Ravindra M. Deshmukh, Advocate for the applicant
Mr. S.P. Sonpawle, A.P.P. for respondent Nos.1 and 2/State

CORAM : MANGESH S. PATIL, J.

DATE : 28.04.2021

PER COURT :

This is a successive application under Section 438 of the Code of Criminal Procedure for bail in connection with Crime No.43/2018, registered with Amalner Police Station, District Jalgaon for the offences punishable under Sections 498-A, 406, 377, 312, 354, 354-C, 323, 504,

506 read with Section 34 of the Indian Penal Code.

2. The FIR has been lodged by the wife of the applicant inter alia making several imputations on the basis of which the crime has been registered.

3. I have heard both the sides and perused the papers of investigation.

4. Though it is a matter of record now that in view of the specific written instructions of the Investigating Officer, the allegations are not sufficient enough to make out the ingredients for constituting the offence punishable under Section 377 of the IPC, that cannot be said to be a material change in the circumstances since rejection of the applicant's earlier application for anticipatory bail by this court being Anticipatory Bail Application No.1141/2018 vide order dated 30.12.2018.

5. Pertinently, by the selfsame order, few other relatives of the applicant were granted anticipatory bail by this Court, but it was not inclined to grant the relief to him.

6. It is after a lapse of two years, without surrendering himself after rejection of his earlier application and without there being any challenge to that order, the applicant has been bold enough to prefer this application. For all the while he has been a free bird.

7. For whatever reason, even the Investigating Officer seems to be remiss in not making any attempt to arrest the applicant, who is stated to be a bank employee and has been discharging his duties regularly. In spite of a specific direction by the order dated 30.03.2021, the Investigating Officer has filed an affidavit, which does not touch the aspect of steps taken by him in arresting the applicant.

8. It is only now by way of a separate report submitted by the Investigating Officer that he has issued a notice to the applicant under Section 41-A of the Code of Criminal Procedure. However, since the date of notice i.e. 08.02.2021, he has been reported to be on leave.

9. Considering all the above mentioned circumstances, when the matter is awaiting investigation for such a long time and in view of the decision of the Supreme Court in the case of ***G.R. Ananda Babu Vs. The State of Tamil Nadu and another; Criminal Appeal No.84 of 2021 (arising out of SLP (Crl.) No.213 of 2021 dated 28.01.2021***, the applicant is not entitled to reconsideration of his earlier application for anticipatory bail.

10. The application is rejected.

[MANGESH S. PATIL]
JUDGE

