

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 313 OF 2021

Jahir Babubhai Sayyad, Age 65 years,
Occu. Business, Residing at Room No. 701,
Building No.2, Emrold, Royal Palm,
Aarey Milk Colony, Goregaon (E), Mumbai. .. Applicant

Versus

The State of Maharashtra
At the instance of Srirampur Police Station,
in CR No. 0221 of 2020 .. Respondent

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Mr. Santosh Pawar and Mr. M.V. Thorat, Advocates for applicant.
Smt. R.P. Gaur, APP for respondent – State

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CORAM : MANGESH S. PATIL, J.

DATE : 19.06.2021

PER COURT :-

The father in law of the informant is apprehending arrest in connection with offence registered at her instance being Crime No. 221 of 2021 with Shrirampur City Police Station, District Ahmednagar for the offences punishable under Sections 420, 465, 467, 468 and 471 read with Section 34 of the Indian Penal Code and under Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 1929 and is seeking bail in the event of his arrest.

2. Sum and substance of the allegations are to the effect that because of the matrimonial dispute, two sides had agreed to get formally separated. Accordingly, compromise (Exhibit-B) was entered into between them on 15th November 2018, *inter-alia* agreeing for divorce and payment of sums by the husband's side on withdrawal of the cases instituted by the informant. It is now being alleged that the husband was not personally present at the time of execution of this writing and instead of him, it is the applicant, who had put his signature on behalf of the husband. It is then alleged that in spite of the agreement, sums mentioned therein were never paid.

3. I have heard learned advocate for the applicant, learned APP for the respondent-State and perused the papers of the investigation.

4. Accepting the allegations in First Information Report at its face value, it appears that it was with consensus of both sides i.e. informant and husband, the disputed writing was brought into existence. Conspicuously, even her father was present when this document was brought into existence. For that matter, even the FIR itself specifically mentions that the applicant had put his signature on this writing for and on behalf of his son i.e. husband of the informant in presence of the informant. If such is the state of affairs, then *prima facie*, there is serious doubt as to if it would constitute an offence of

forgery and use of forged document.

5. Besides, as can be seen from the copy of the order passed by the Family Court, Bandra, in divorce proceeding initiated by the informant, a formal decree of divorce has been passed by the competent court at her instance. Pertinently, this disputed writing was executed on 15th November 2018, whereas, it is thereafter that the informant had filed divorce proceeding before the Family Court, Bandra (Exhibit-C) and the decree was passed on 7th November 2020. It clearly shows that for whatever reason the parties did not act upon the disputed compromise. Importantly, even the informant subsequently chose to file the divorce proceeding in the year 1920. Besides learned advocate for the applicant also submits that money agreed to be paid to the informant in this writing was to be paid contingently, on withdrawal of the proceedings initiated by her which are still pending. If this is so, in my considered view, there was serious doubt as to if it would constitute an offence of cheating.

6. Considering all aforesaid mentioned facts and circumstances, in my considered view it is a fit case where the applicant deserves to be granted anticipatory bail.

7. The Anticipatory Bail Application is allowed. In the event of arrest of the applicant, in connection with Crime No. 221 of 2021

registered with Shrirampur City Police Station, District Ahmednagar for the offences punishable under Sections 420, 465, 467, 468 and 471 read with Section 34 of the Indian Penal Code and under Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 1929, he shall be released on his executing a personal recognizance for an amount of Rs.15,000/- (Rs. Fifteen Thousands Only) and furnishing solvent surety of like amount subject to following conditions -

- (a) He shall not tamper the evidence or influence the witnesses,
- (b) He shall attend the trial punctually.

(MANGESH S. PATIL)
JUDGE

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