

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

922 ANTICIPATORY BAIL APPLICATION NO.1051 OF 2020

Ismail Usman Sayyed,
Age 28 years, Occ. Labour,
r/o. Wanjargaon, Tq. Vaijapur,
Dist. Aurangabad.

Versus

The State of Maharashtra,
Through Vaijapur Police Station,
Tq. Vaijapur Dist. Aurangabad.

...
Advocate for Applicant : Mr. Narendra D. Sonavane
APP for Respondent-State : Mr. S.W. Mundhe

...
CORAM : MANGESH S. PATIL, J.
DATE : 26 FEBRUARY 2021

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure by a husband, seeking bail in the event of his arrest in connection with Crime No.0306/2020 registered with Vaijapur Police Station, Dist. Aurangabad for the offence punishable under Section 4 of the Muslim Women (Prevention on Rights on Marriage) Act, 2019, registered at the instance of the respondent No.2-wife.

2. In view of the mandate of the provisions of Section 7(c) of the Act in order to hear the informant, the matter was adjourned from

time to time. Though, she has filed an application seeking permission to assist the learned APP while deciding this application, she has not turned-up thereafter, on at least last two dates. Consequently, she could not be heard.

4. Suffice to observe that in spite of the apparent bar contained in Section 7(c) of the Act, in the case of **Rahana Jalal Vs. State of Kerala and Another, Cri.Appeal No.883/2020** (arising out of a SLP Cri.No.5693/2020 decided on 17 December 2020), it has been laid down that the remedy of anticipatory bail under Section 438 of the Cr.P.C. would be available even to the person accused of the offences under the Act.

5. The learned Advocate for the applicant would submit that there is no sufficient and cogent reason, why the bail should be refused to him. Accepting the allegations at their face value, it is an offence of uttering the word 'Talaq' thrice. His custodial interrogation is not necessary. He is ready to co-operate the Investigating Officer and may be granted anticipatory bail.

6. The learned APP opposes the application. He submits that there is a clear material in the form of statement of witnesses, apart from the FIR lodged by the respondent No.2-wife, about the applicant

having committed the crime. Therefore, his custodial interrogation is necessary and the application be rejected.

7. I have carefully gone through the papers of the investigation. Accepting the allegations at their face value, the offence is stated to have been committed since the applicant uttered the word *Talaq* thrice, which is an offence punishable under Section 4 read with Section 3 of the Act. Prima facie, in order to complete the investigation, the applicant's custodial interrogation would not be necessary.

8. Besides, as can be seen from the papers, the applicant was issued with a notice under Section 41(1) (a) of the Cr.P.C. dated 19 October 2020.

9. Considering all the aforementioned state of affairs, this is a fit case to grant anticipatory bail.

10. The Application is allowed.

11. In the event of arrest of the applicant in connection with Crime No.0306/2020 registered for the offence punishable under Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019, he shall be released on bail on executing his personal recognizance for an amount of Rs.15,000/- (Rupees fifteen thousand)

and furnishing a solvent surety in the like amount, subject to the following conditions:

- a) He shall attend the concerned Police Station on 05.03.2021 and 12.03.2021 between 11. a.m. and 01.00 p.m. and shall co-operate the Investigating Officer.
- b) He shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

sarowar