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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1148 OF 2020

Siddharth s/o Panditrao Jadhav
Age: 35 Yrs., occu. Service,
R/o Governmemnt Quarters,
Rural Hospital, Bhoom, Tq. Bhoom,
District Osmanabad. = APPLICANT

VERSUS

The State of Maharashtra
Through Police Station,
Aundha (N), Tq. Aundha (N),
District Hingoli = RESPONDENT

Mr. SP Katneshwarkar, Advocate for Applicant;
Mrs. RP Gour, APP for Respondent-State.

CORAM : SMT. VIBHA KANKANWADI, J.
DATE : 8th January, 2021.

PER COURT :-

1. Present applicant is apprehending his arrest in connection with CR No. 230/2020 registered with Aundha Nagnath Police Station, District Hingoli, for the offences punishable under Sections 498A, 323, 504, 506 read with 34 of IPC and, therefore, he has filed the present application under Section 438 of Cr.P.C.

2. Heard learned Advocate Shri SP

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Katneshwarkar for the applicant and learned APP Smt. RP Gour for Respondent-State.

3. It has been vehemently submitted on behalf of the applicant that taking into consideration the contents of the FIR, it can be seen that physical custody of the applicant is not required. The applicant is a Government servant. He and his entire family has been falsely roped due to matrimonial discord. It can also be seen that the informant is changing her allegations each time. In her petition, filed under the Domestic Violence Act, she had claimed something different. She had contended that the present applicant was given an amount of Rs.6,00,000/-; 50 grams (5 tolas) of gold ornaments and 30 tolas of silver ornaments as dowry. It was further stated that the demand of Rs.5,00,000/- was for the purpose of the service of the applicant. In fact, the applicant is already serving as an Assistant Health Officer with Rural Hospital, Bhoom. The informant is suspecting that the applicant has developed illicit relations and, therefore, she used to always quarrel with him. She had left the house on her own on 18.8.2020. The

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applicant had issued legal notice through his advocate on 1.10.2020 and thereafter, the FIR has been lodged. There is no criminal antecedents of the applicant and, therefore, the learned Advocate canvassed for grant of anticipatory bail.

4. Per contra, learned APP strongly opposed the application and submitted that though the applicant is Government servant, the allegations are that he has accepted the amount of Rs. 2,00,000/- in cash as dowry with 5 grams gold ring and household articles. The marriage had taken place on 18.5.2017, however, she has been harassed since 10.8.2017 by the accused persons, including the present applicant on the count that they were not honoured at the time of the marriage; she is not good-looking and they are not approving her. When the father-in-law and brother-in-law were not given meals at proper time on 3.3.2018, she was assaulted by father-in-law; mother-in-law and brother-in-law. She lodged the report vide CR No. 99/2018 under Section 325, 323 read with 34 of IPC. Thereafter, she had also filed an application under Section 156(3) of Cr.P.C. before JMFC, Aundha

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Nagnath on 1.7.2018 against all the accused persons under Section 498A of IPC. That application was compromised and it was assured by the accused persons that they would behave with her properly. They treated the applicant properly only for a period of five months and thereafter again they started demanding amount of Rs.5,00,000/- for purchasing a car for the applicant. She was then taken by the applicant to the place of his posting, i.e. Bhoom in District Osmanabad, where she was again treated properly for about five months. But, thereafter again, he started harassing her after he was instigated by other accused persons. The present applicant used to drink liquor daily and used to assault her, starve her on account of demand of Rs.5,00,000/- The cruelty of the applicant can be seen when the informant alleges that the applicant had given her burn injuries on her hands and legs with knife. When she called her mother and brother at Bhoom on 18.8.2020, present applicant abused and assaulted her in presence of her mother and brother and gave threat to kill her if she fails to bring the amount of Rs.5,00,000/-. He flatly told that he would not allow her to

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cohabit, if she does not fulfill his demand. She then went to her parental house and filed an application with Mahila Dakshata Samiti, Hingoli. The said Committee issued notice to the accused persons, but they did not respond. If such kind of behaviour has been given to the informant, the applicant does not deserve any sympathy. His custody is required for the purpose of investigation, which is still pending. The discretionary relief need not be granted in favour of the applicant.

5. At the outset, it can be seen that merely because the applicant is the Government servant, he cannot ask for his release on anticipatory bail. The allegations will have to be considered. It appears that after the marriage on 18.5.2017, the first legal action, which appears to have been taken by the informant, was on 3.3.2018 against her parents-in-law and brother-in-law. Thereafter, once again she had knocked the doors of the Court by application under Section 156(3) of Cr.P.C. on 1.7.2018 and that appears to have been compromised and thereafter the informant started residing with

the applicant. Definitely, the allegations are serious. But at the same time, we cannot ignore the parameters, those have been laid down by the Hon'ble Apex Court, while considering the application for anticipatory bail in the case of Siddharam Satlingappa Mhetre Vs. State of Maharashtra - (2011) 1 SCC 694. They are as follows, -

- i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made;
- ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizable offence;
- iii. The possibility of the applicant to flee from justice;
- iv. The possibility of the accused's likelihood to repeat similar or the other offences.
- v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.
- vi. Impact of grant of anticipatory bail particularly in cases of large magnitude affecting a very large number of people.
- vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of [sections 34 and 149](#) of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern;
- viii. While considering the prayer for grant

of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."

6. Taking into consideration the above parameters, the applicant being the Government servant, there is no question of he getting absconding or it is less likely to do so. Further, it can be seen that the informant is presently residing in Hingoli district; whereas the present posting of the applicant is at Bhoom in Osmanabad district. Therefore, question of tampering with the evidence is not possible and the said point can be controlled by imposing conditions. Taking into consideration the allegations in the FIR and the fact that the investigation of the crime is still pending, imposing condition of attendance by the applicant is definitely required and,

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therefore, following order is passed, -

ORDER

- i. The application stands allowed;
- ii. In the event of arrest of the applicant in connection with CR No.230/2020 registered with Aundha Nagnath Police Station, District Hingoli, for the offences punishable under Sections 498A, 323, 504, 506 read with 34 of IPC, he be released on PR of Rs.30,000/- with two sureties of Rs.15,000/- each.
- iii. The applicant shall not tamper with the evidence of the prosecution in any manner nor shall he indulge in any criminal activity.
- iv. The applicant should attend the concerned police station and thereby remain present before the Investigating Officer on every Wednesday, Saturday and Sunday between 10.00 AM to 2.00 PM till 31.3.2021 or filing of charge-sheet whichever is earlier.

(SMT. VIBHA KANKANWADI)
JUDGE

BDV