

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

**ANTICIPATORY BAIL APPLICATION NO.1159 OF 2020**

Hitesh s/o Govinda Mahajan

... Applicant

**Versus**

The State of Maharashtra

... Respondent

.....  
Mr. N. E. Deshmukh, Advocate for applicant.

Mr. S. Y. Mahajan, Advocate for respondent – State.

.....

**CORAM : SMT. VIBHA KANKANWADI, J.**

**DATE : 06-01-2021**

**ORDER :**

. Present applicant is apprehending his arrest in connection with Crime No.191 of 2020 registered with Erandol Police Station, Tq. Erandol, Dist. Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506, 34 of Indian Penal Code and, therefore, he has filed present application under Section 438 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. N. E. Deshmukh for applicant and learned APP Mr. S. Y. Mahajan for respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR would show that the present applicant is the husband of the informant and she is alleging that their marriage had taken place on 28-12-2017 and they have a son aged 16 years. After marriage, the present applicant took her to Laxmi Nagar, Ambarnath, Dist. Thane. He had represented her that the house at Ambarnath is owned by him and he is doing business in vegetables, however, in fact, he was serving with the gas agency and the house, where he was residing was a rented premises. The present applicant is addicted to liquor and without any reason, he used to assault her. He used to say that he has been given less dowry by her father. She has made allegations against the in laws, sister-in-law and her husband. It is further stated that her parents, brother, brother-in-law had tried to persuade the applicant and his relatives, however, they continued to harass her. She is staying with her parents since last about one and half year along with the son.

4. Taking into consideration the contents of the FIR, it can be seen that the physical custody of the applicant would be less likely. Further, though clear directions have been given by the Hon'ble Supreme Court in the case of ***Armesh Kumar Vs. State of Bihar and Another (AIR 2014 SC 2756)***, yet, the possibility of arrest of the applicant on some ground cannot be ruled out and, therefore, it cannot be stated that the application is not maintainable. Nothing is to be recovered at the instance of the applicant. It has been tried to be demonstrated on behalf of the applicant that, in her notice issued on 06-11-2020 a stand was

taken by the informant and, therefore, she has taken somersault for levelling allegations and ill treatment. The investigation can still go on, even if the present applicant is not put in the custody of the police and, therefore, the application deserves to be allowed. Hence, the following order :-

**ORDER**

- I) Application stands allowed.
- II) In the event of arrest of present applicant in connection with Crime No. 191 of 2020 registered with Erandol Police Station, Tq. Erandol, Dist. Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506, 34 of Indian Penal Code, he be released on P.R. and S.B. of Rs.15,000/-.
- III) The applicant shall remain present before the Investigating Officer on First and Third Sunday of every month between 10.00 a.m. to 5.00 p.m. till filing of charge sheet.
- IV) He shall not tamper with the evidence of the prosecution.
- V) He shall not indulge in any criminal activity. He should cooperated with the investigation.

**[SMT. VIBHA KANKANWADI, J.]**