

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 217 OF 2021

Balaji Chandrakant Bhatjoshi .. Applicant

Vs.

The State Of Maharashtra .. Respondent

Mr.Niranjan Mundargi a/w Mr. Shambhu M. Jha and Mr.
Jitendra Jha, Advocate for Applicant.

Ms. M.R. Tidke, A.P.P. for the State-Respondent.

Mr.Khamkar, P.S.I. Borivali Police Station, Mumbai, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 2nd MARCH, 2021

PC.

1. The Applicant is arrested in C.R. No.67 of 2020 registered with Borivali Police Station for the offence punishable under Sections 498-A, 354, 509, 323, 506(2), 504 read with 34 of the Indian Penal Code (for short "IPC"). Subsequently, Sections 307, 342, 376, 511 and 377 were added. The First Information Report (for short "FIR") was registered on 17.02.2020.

2. The prosecution case is that the complainant was married to the co-accused on 19.06.2019. The complainant started residing at her matrimonial home after marriage. From

14.02.2020 she was residing with her parents. The applicant is father-in-law of complainant. After the marriage, complainant was harassed. She was threatened. The father-in-law of the complainant was addicted to liquor. He was trying to come close to the complainant. On 08.02.2020, the father-in-law (applicant) touched the complainant inappropriately. He demanded sexual favour. She refused. He repeatedly did such acts. The complainant was frequently confined in the room. She was subjected to ill-treatment. She was abused and assaulted. The father-in-law, mother-in-law and sister-in-law used to quarrel with her. They were not allowing the complainant to sleep with her husband. The complainant was assaulted by the accused. The applicant threatened her that he would kill her by pouring kerosene on her person. The sister-in-law instigated the applicant. The complainant was assaulted. The applicant pulled her hair. The complainant left her matrimonial home on 14.02.2020. Subsequently, FIR was lodged on 17.02.2020.

3. The applicant and the other accused had preferred anticipatory bail application before this Court. The said application was partly allowed. The application of the applicant and his son was rejected. Whereas the mother-in-law and the sister-in-law of the complainant were granted relief under Section 438 of Cr.P.C. The applicant surrendered before the Police on 06.10.2020. He was remanded to police custody till 07.10.2020. He was again produced before the Court for remand on 07.10.2020. However, he was remanded to judicial custody.

4. The husband of the first informant preferred application for bail before the Sessions Court. The said application was allowed by order dated 19.10.2020. While allowing the said application, it was observed that the allegations levelled against the husband of the complainant were in respect of assaulting with fist and kick blows. However, serious allegations levelled against the father-in-law of complainant. The application for bail preferred by the applicant was rejected by the Sessions Court vide order dated 03.11.2020. The

applicant, thereafter, preferred another application for bail before the Sessions Court. The said application was rejected by order dated 08.01.2021.

5. Learned Advocate for the applicant submitted that the applicant is in custody from 06.10.2020. Further detention of the applicant is not necessary. The allegations against the applicant are false. The co-accused were granted anticipatory bail and regular bail. Charge-sheet is filed. The informant had improvised her version in her supplementary statement. There is no allegation of dowry. The marriage was not consummated between the son of the applicant and complainant. Sections 307, 376 and 377 were added subsequently. The complainant had left the matrimonial home within eight months from marriage. She had visited her parental home on three occasions. There are no criminal antecedents against the applicant.

6. Learned APP submitted that the allegations against the applicant are serious. There was sexual harassment at the instance of the applicant. The applicant has demanded sexual

favour. He used to touch the complainant inappropriately. He had outraged her modesty. He tried to exhibit his private part. The application for anticipatory bail preferred by applicant was rejected. The allegations are of serious nature.

7. The applicant is father-in-law of informant. The FIR was registered for the offences under Sections 498-A, 354, 509, 323, 506(2), 504 read with 34 of IPC. The applicant is in custody from 06.10.2020. He was remanded to police custody for one day. Thereafter, he was remanded to judicial custody. Sections 307 and 376 were added subsequently. On completing investigation, charge-sheet is filed. The FIR does not contain any allegations constituting the offences punishable under Sections 307, 376 and 377 of IPC. The FIR was lodged on 17.02.2020. Supplementary statement of the complainant was recorded on 06.03.2020. The said statement refers to the allegations which at the most constitute the offence under Section 354 of IPC. As per the FIR, the complainant has left the matrimonial home on 14.02.2020. In the supplementary statement dated 06.03.2020, it is stated

that she was admitted to hospital on 23.02.2020 and she was allegedly treated for fracture of nasal bone. The FIR does not mention any injury caused to her nose by accused. The supplementary statement also does not refer to any allegations constituting the offence punishable under Sections 307, 376 and 377 of IPC. On 24.12.2020 i.e. after the period of about ten months, in supplementary statement, the complainant has stated that her husband used to subject her to unnatural sex. The other accused are granted anticipatory bail or regular bail. The husband of the informant is released on bail. On completing investigation, charge-sheet is filed. Hence, further detention of the applicant is not necessary. Bail can be granted to the applicant.

ORDER

- (i) Criminal Bail Applicant No.217 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No.67 of 2020 registered with Borivali Police Station, Mumbai on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station

once in three month on first Saturday of the month between 11.00 a.m. to 1.00 p.m. till further order;

- (iv) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety;
- (v) Bail Application stands disposed of accordingly.
- (vi) This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)