

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

**ANTICIPATORY BAIL APPLICATION NO.375 OF 2021  
WITH  
INTERIM APPLICATION NO.534 OF 2021**

Mr. Kaivan Jitendra Lalan .. Applicant  
Vs.  
The State Of Maharashtra .. Respondent

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Mr. Vikas Sharma, Advocate for Applicant in ABA.  
Ms. Sangeeta Salvi, Advocate for applicant in IA.  
Mr. S.S. Pednekar, A.P.P. for the State-Respondent.

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**CORAM : PRAKASH D. NAIK, J.  
DATE : 26<sup>th</sup> FEBRUARY, 2021**

**PC.**

1. This is an application for anticipatory bail in connection with C.R. No.813 of 2020 registered with Ghatkoper Police Station for the offence punishable under Sections 498 (A), 406, 506 (2), 354 of Indian Penal Code (for short "IPC"). The First Information report was lodged on 21<sup>st</sup> November, 2020.

2. The case of the prosecution is that, the complainant got married with applicant and she started residing in matrimonial home alongwith the applicant and the other accused. She was subjected to harassment and gold ornaments in the nature of Stridhan were

misappropriated by the accused. She was assaulted. The co-accused had subjected her to act of outraging her modesty. She was continuously harassed and abused. On 01<sup>st</sup> May, 2020 the complainant was threatened by pointing out knife and gold ornaments were taken by the accused. She was forced to execute writing that the gold ornaments were returned to her. The complainant was given ill-treatment. She was subjected to physical and mental cruelty. She was harassed from 29<sup>th</sup> December 2014 to 29<sup>th</sup> May 2020 by all the accused. Shridhan was worth of Rs.5,93,268/-.

3. The applicant and the other accused had preferred anticipatory bail application before the Sessions Court. The said application was partly allowed on 03<sup>rd</sup> February 2021. The Sessions Court granted anticipatory bail to other accused and rejected the application of the this applicant.

4. Learned counsel for the applicant submitted that entire case of the prosecution is false. Applicant and other accused were falsely implicated in this case. The marriage was solemnized on 28<sup>th</sup> December 2014. Child was born on 29<sup>th</sup> December 2015. From 28<sup>th</sup> December 2014 to March 2020 there was no complaint filed by the informant. First

N.C. was filed on 29<sup>th</sup> April 2020. The applicant recorded video on 29<sup>th</sup> April 2020 wherein the complainant had admitted that she has received all her ornaments, gold or silver. During the period when she was at matrimonial home, the complainant did not file any complaint. She left matrimonial home. The applicant forwarded letter to Pydhonie Police Station on 30<sup>th</sup> May 2020. On 27<sup>th</sup> July 2020 the letter was written to Pydhonie Police Station and Deputy Commissioner of Police. The FIR was lodged on 21<sup>st</sup> November 2020. The Sessions Court has observed that the applicants had claimed that they have returned all the gold ornaments and the said fact is recorded in video. It is the contention of the complainant that accused have returned gold ornaments as per video. However, latter on accused took the said gold ornament back by pointing out knife. Criminal proceedings are not recovery proceedings and therefore, bail cannot be refused for recovery of Stridhan. In spite of above observation the Sessions Court rejected application of applicant on the ground that conduct of the accused is required to be taken into consideration. On interacting with the informant, she pointed out the manner in which she was ill-treated and hence investigation is required to be carried out as to in whose possession the Stridhan of the

complainant is lying.

5. Learned APP submitted that the complainant was harassed by the applicant. She was subjected to physical and mental torture. Stridhan is lying with the accused. Role is attributed to the applicant.

6. Learned counsel for the complainant opposed the application for bail. It is submitted that the accused had subjected the complainant to physical and mental cruelty. Stridhan lying with the accused which has to be recovered. The complainant was threatened and made to admit that the gold ornament were handed over to her prior to lodging of FIR. N.C. complaint was filed as well as complaint is written to concern Police Station. It is submitted that written complaint reflected nature of harassment caused to the complainant by the accused.

7. I have perused the documents on record. The dispute is on account of matrimonial discord between parties. The applicant and others were implicated as accused. Relief has been granted to the other accused. Child is born out of the wedlock. Marriage was performed in

2014. For the first time, N.C. complaint was lodged on 29<sup>th</sup> April 2020. The contention of the applicant is that Stridhan was entrusted to the complainant which was reflected in the video. The complainant has however denied the said fact by stating that she was forced to admit receipt or stridhan in video. The order passed by Sessions Court however, records that the complainant had admitted that gold was returned. Subsequently, it was stated that the application of the co-accused was allowed by the Sessions Court while application of the applicant was rejected. It was observed that bail cannot be refused for recovery of Stridhan. Learned Judge has interaction with the complainant and it was observed that conduct of the applicant is required to be considered and investigation is required to be carried out as to in whose possession Stridhan is lying. Considering factual aspects, custodial interrogation is not necessary. Hence, I pass following order:-

**ORDER**

- (i) Anticipatory bail application No. 375 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in connection with C. R. No.813 of 2020 registered with Ghatkoper Police Station, the applicant be released on bail on furnishing 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 as and when called for till filing of charge-sheet.
- (iv) The applicant shall not tamper with the evidence.
- (v) Anticipatory bail application and Interim application stand disposed of.

**(PRAKASH D. NAIK, J.)**