

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

ANTICIPATORY BAIL APPLICATION NO. 386 OF 2021

Adarsh Ashok Gupta ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Veer Kantaria i/b. Mr. Sunil Shukla, Advocate for the Applicant.

Mr. S. S. Pednekar, APP for the Respondent – State.

Mr. Satish B. Patil, Advocate for Original Complainant.

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CORAM : PRAKASH D. NAIK, J.

DATE : 30th MARCH, 2021

PER COURT:

1. This is an application for anticipatory bail in C.R. No. 132 of 2020 registered with Ghatkopar Police Station, Mumbai for offences under Sections 498-A, 377, 354, 506 & 504 r/w Section 34 of Indian Penal Code (for short “IPC”) and Section 4 of Dowry Prohibition Act, 1961.

2. The First Information Report (for short ‘FIR’) was lodged by the wife of the applicant on 17th February, 2020. The marriage between the applicant and complainant was solemnized in 2017. It is alleged that the complainant was committed to harassed, abused and assaulted. There were incidents of outraging her modesty. She was

subjected to unnatural sex.

3. The applicant and other accused had preferred application for anticipatory bail before the Sessions Court. Relief was granted to other accused, whereas the application of the applicant was rejected.

4. Learned counsel for the applicant submits that entire case is false. The co-accused were granted anticipatory bail. The FIR was lodged by the complainant as counter blast to suit filed by the grand father of the applicant. The complainant had initiated proceedings under the Domestic Violence Act. In the application under the provisions of Domestic Violence Act, there were no allegations of unnatural sex.

5. Learned APP submitted that N.C. complaints were filed against the applicant by the complainant on account of assault. The victim/complainant was medically examined. However, the examination was conducted after a period of about more than eight months from incident, hence there could not be any medical evidence.

6. Learned counsel for the complainant submits that several complaints were filed by the complainant against the applicant and others. N. C. complaints about assault were registered.

The complainant was subjected to unnatural sex. There was demand of dowry. Specific role has been attributed to the applicant.

7. The learned Sessions Judge while rejecting the application of applicant had observed that the applicant had subjected the complainant to unnatural sex. The co-accused were granted anticipatory bail. It was observed that they can be directed to attend Police Station and their custodial interrogation is not necessary. Apparently proceedings under the D.V. Act were initiated prior to registration of FIR. It is not disputed that in the said application there were no allegations about offence under Section 377 of IPC. The other accused were granted anticipatory bail. Considering the factual aspects, the applicant need not be subjected to custodial interrogation. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No. 386 of 2021 is allowed;
- (ii) In the event of arrest of the applicant in connection with in C.R. No. 132 of 2020 registered with Ghatkopar Police Station, Mumbai, 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 attend the investigating officer on 7th, 8th & 9th April, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of charge-sheet.

(iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)