

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

ANTICIPATORY BAIL APPLICATION NO. 1167 OF 2021

Ashutosh Mahendra Mishra	... Applicant
Versus	
State of Maharashtra	... Respondent

Mr. Jigar Agarwal for Applicant. _____
Smt. J. S. Lohokare, APP for State/Respondent.
None present for Respondent No.2.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 23rd JULY, 2021
(Through Video Conferencing)

P. C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 102 of 2021 registered with Kapurbavdi Police Station, on 26/03/2021, under Sections 323, 406, 498A and 504 r/w. 34 of the Indian Penal Code (for short 'IPC').
2. Heard Shri. Jigar Agarwal, learned counsel for the applicant and Smt. Lohokare, learned APP for the State.
3. Vide order dated 05/05/2021, notice was issued to the first informant. Learned counsel for the applicant was directed to add the first informant as a party respondent. It was done. Learned

counsel for the applicant was allowed to serve the added respondent through private notice and to file an affidavit to that effect. The affidavit of service is filed by learned counsel for the applicant mentioning that the added respondent is served on 28/05/2021. Nobody appears for the Respondent No.2. Therefore, I am proceeding to decide this matter finally.

4. The First Information Report (for short 'F.I.R.') is lodged by wife of the applicant. She has stated that, she got married with the applicant on 25/02/2020. There are allegations that, after wedding, the applicant's parents told her that, they wanted more articles in the marriage than what was given by her parents. They wanted an Air Conditioner. The informant told this fact to her parents. Her father brought Air Conditioner and other articles on 30/11/2020. Even thereafter the informant was harassed. It is alleged that the husband i.e. present applicant had blocked her phone number. He used to deprive her from physical relations. He used to abuse her and suspect her character. The informant has stated that, for a few days, she was residing with her parents, but since she wanted to cohabit with the applicant, she came back and stayed with him. On 18/03/2021, she

had even lodged N.C. complaint No. 298/21 at Kapurbavdi police station, under sections 323, 504 and 506 of IPC, for alleged beating by the applicant. On 25/03/2021, she had given another N.C. against the applicant's mother. In spite of that, she has stated that, still she wanted to cohabit with the applicant and they were not permitting her to stay with them. The allegations are that the Stridhan which she had received at the time of her marriage, was retained by the applicant. The applicant and his parents were not returning it. On these allegations the F.I.R. is lodged.

5. Learned counsel for the applicant submitted that, prior to the registration of F.I.R. on 26/03/2021, the applicant had given a complaint to the same police station on 17/03/2021. He submitted that, as a counter blast, this F.I.R. is lodged. He submitted that, there are no serious allegations against the applicant warranting his custodial interrogation. Learned counsel made a categorical statement that, pursuant to the interim order and directions given, the applicant has attended the police station and has co-operated with the investigation. The police had even recovered stridhan.

6. Learned APP opposed this application. She submitted that,

the applicant has attended the police station but has not co-operated with the police and he has not returned the stridhan. She disputed the fact about return of the stridhan. She further submitted that, before lodging of F.I.R., counsellor's session was held and the informant had decided not to lodge any complaint initially, but subsequently she lodged her F.I.R.

7. I have taken into account these submissions. By the previous order, I had protected the applicant by way of interim order. Notice was issued to the Respondent No.2, but nobody appears for the Respondent No.2. The allegations in the F.I.R. are omnibus and are directed against the applicant and his parents. Applicant's parents are already granted anticipatory bail. There are no specific instances mentioned by the informant. Though, there is a reference to two incidents of beating. In regard to those instances, separate N.Cs are lodged and it is a separate subject matter. As far as, general allegations are concerned, the F.I.R. itself shows that the informant still wanted to cohabit with the applicant. Therefore, it is difficult to observe that the offence of cruelty as defined under section 498A of IPC is really made out. However, the investigation is still in progress. It

will not be proper to comment anything further. As far as, return of stridhan is concerned, both the sides are making different claims; but police have ample powers to carry out search and investigation in that behalf. In the background of general and vague allegations against all the accused, custodial interrogation of the applicant is not necessary in this case. The applicant can be protected by an order of anticipatory bail.

8. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R.No. 102 of 2021 registered with Kapurbavdi Police Station, the Applicant be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)