

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

ANTICIPATORY BAIL APPLICATION NO. 1329 OF 2021

Rajesh Kamlesh Keswani Applicant

Versus

The State of Maharashtra & Anr. Respondents

Mr. Ashutosh R. Gole for Applicant.
Smt. Anamika Malhotra, APP for State/Respondent.
Ms. Saloni M. Ghule for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 14th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 134 of 2021 registered at Kapurbavdi Police Station, Dist. Thane, under sections 498A, 323, 504 r/w. 34 of the Indian Penal Code (for short 'IPC').
2. Heard Shri. Ashutosh Gole, learned counsel for the applicant and Smt. Anamika Malhotra, learned APP for the State.
3. The First Information Report (for short 'F.I.R.') is

lodged by the applicant's wife on 20/04/2021. She has stated that, she got married with the applicant on 21/06/2018. During marriage, some amount was paid to the applicant and his family. Some ornaments were also given to him. The informant herself was given Stridhan. Initially, the applicant was working in a company at Hyderabad. There also articles worth Rs.2 lakhs were given by the informant to the applicant. It is mentioned in the F.I.R. that the applicant had told the informant to take up a job and handover salary to the applicant. There used to be some dispute between the couple over that issue. There are allegations that, applicant's mother was also harassing her. She had slapped her once. It is mentioned that, on 16/12/2018 in an incident the applicant had caused some hurt to the informant. Her allegations are that, her little finger was fractured. She went to her parental house, got treatment on her finger and stayed there for a few days. Thereafter she came back to Hyderabad. The applicant again started demanding money. The informant used to deposit Rs.20000/-p.m. in their joint account. On 24/02/2018, the applicant picked up quarrel with the informant. At that time, he

assaulted the informant with a wooden stick, fist and kicks blows. She was driven out of her house. On these allegations the informant lodged C.R.No.170 of 2019 under section 324 of IPC at Miyapur police station, Saibarabad. After that, she went to stay with her father for a few days. She had given a complaint to MIDC Police station, Andheri against the applicant and his relatives on 03/03/2019. The police had called the applicant and his parents for counseling. Because of the efforts took by the counselor the applicant withdrew her complaint made against the applicant. She stayed with the applicant at Thane from 21/03/2019 to 31/01/2020. During that period, the applicant allegedly harassed her. Thereafter the applicant got a job at Bangalore. She started residing with the applicant, but harassment to the informant was continued. On 16/10/2020 the applicant left their matrimonial house on the pretext that he was going to meet his parents and since then he did not return. When the informant contacted the applicant on phone, he never told his whereabouts. Therefore, the informant came back to her parent's house.

4. Learned counsel for the applicant submitted that,

admittedly, the couple was residing separately since 16/10/2020. The F.I.R. is lodged in April, 2021. Thus, it is lodged belatedly as an afterthought. The allegations against the applicant are vague. As far as the allegations of assault are concerned that is the subject matter of separate offence i.e. C.R. No.170 of 2019 at Miyapur police station. He submitted that the applicant has co-operated with the investigation and has attended the police station. Learned counsel for the applicant submitted that, the WhatsApp chats between the applicant and informant which are annexed to this application show that the applicant had told the informant to keep gold with her brother, but the informant's brother refused to keep that gold and, therefore, there is no question of applicant misappropriating those gold ornaments.

5. Learned counsel for the informant submitted that, applicant's whereabouts are not known because he has given different addresses at Ajmer, Banglore, Hyderabad and Thane.

6. Learned APP relied on the fact that the applicant had assaulted the informant. This would amount to cruelty. With this submission she opposed the application.

7. I have considered these submissions. As far as, question of assault is concerned, as submitted by learned counsel for the applicant, it is a subject matter of different F.I.R. which is investigated by an appropriate investigating agency. The informant had withdrawn the complaint made by her, on earlier occasion, when the police had intervened. The question, therefore, remains about the period between 21/03/2019 onwards. In that context, the allegations are vague. No specific incidents are mentioned. The applicant had left their matrimonial house on 16/10/2020 and since then there was no cohabitation. There is some delay in lodging F.I.R. and it is not explained. In this background, custodial interrogation of the applicant is not really necessary. It is made clear that, all the observations are restricted to passing of this order and they shall not come in a way of investigation and further trial. The apprehension expressed by learned counsel for the intervenor regarding applicant's address will also have to be taken care of in the operative order.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. 134 of 2021 registered at Kapurbavdi Police Station, Dist. Thane, the applicant is directed to be released on bail on his furnishing 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) The applicant shall furnish details of his residential address and contact numbers to the I.O. In case, there is any change in this aspect, it shall immediately be informed about the same to the Investigating Officer.
- (iv) The applicant shall not cause any further harassment, in any manner, to the informant.
- (v) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)