

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

**ANTICIPATORY BAIL APPLICATION NO.54 OF 2021
WITH
INTERIM APPLICATION NO.752 OF 2021**

Pushkar Prafulla Shukla

.. Applicant

Vs.

The State Of Maharashtra

.. Respondent

...

Mr. Subhash Jha with Sanjay Singh and Tanmay Malusare for law Global, Advocate for Applicant.

Mr. Ajinkya Badar a/w A. Srivastava, Avinash Lalwani, Aprajita, Tushar A. & Digvijay Thakur for Intervenor.

Mr.R.M.Pethe, A.P.P. for the State-Respondent.

...

Digitally signed
by
DNYANESHWAR
ASHOK ETHAPE
Date:
2021.09.24
17:45:47 +0530

**CORAM : PRAKASH D. NAIK, J.
DATE : 21st SEPTEMBER, 2021**

PC.

1. This is an application for anticipatory bail. The applicant is apprehending arrest in connection with C.R. No.583/2020 registered with Powai Police Station, Mumbai for the offence under Section 376, 498-A, 406, 354-C, 379, 506 read with section 34 of the Indian Penal Code.

2. The FIR is lodged by the wife of the applicant on 07.11.2020. It is alleged that complainant got in touch with the applicant through a matrimonial site. They decided to get

married. The applicant's parents wanted dowry and expenses for the wedding. The applicant and the first informant got married on 27.01.2017. Thereafter, the applicant's parents demanded huge dowry and expenses for wedding. The wedding did take place and it was agreed that the applicant's parents would get dowry. Incident occurred in November, 2017 where the applicant had allegedly committed sexual assault on the informant by using a hair-brush. There was alleged forceful penetration using a hair-brush. They continued to reside together in a flat in Mulund. The applicant used to pick up quarrels with the informant because of non-payment of the agreed dowry amount. Complainant parted money in installments. The FIR mentions a few instances when the informant's sister and brother were ill-treated. There are allegations that the applicant captured a video footage surreptitiously and demanded divorce. It is alleged that the applicant took away a puppy which the informant had purchased.

3. Learned counsel for the applicant submitted that the allegations in the FIR are false and concocted. The marriage between parties was performed in 2017. The alleged incident amounting offence under Section 376 of IPC had occurred in 2017. The FIR was lodged in 2020. The allegations that every month she was sharing the amount in the form of installment cannot be termed as dowry. It was by way of understanding

between both the parties and sharing expenses. The allegations in the FIR are concocted. Although, no cause of action had arisen within the jurisdiction of Powai police station, the complainant has chosen to lodge complaint with said police station. It is also alleged that the dog was taken away by the applicant. The payment for purchasing the said dog was made by the applicant. The allegations spelt out in the FIR does not constitute any offence. The disputes are on account of matrimonial discord between the parties. Initially parties have decided to settle the dispute amicably and letter in that regard was forwarded to the police station on 11.06.2021. Subsequently the attempt to reconcile had failed. Learned counsel further submitted that the applicant is granted interim protection by this court by order dated 25.11.2020 and he was directed to attend the police station, which has been complied by him. Custodial interrogation of the applicant is not necessary.

4. Learned APP submitted that the investigation is in progress. It is a dispute between husband and wife. Complainant is represented by advocate.

5. Learned counsel for the intervener submitted that the FIR spells out allegations constituting the offences registered against the applicant. The FIR cannot be discarded on point of the jurisdiction. He relied upon the decision of the Supreme

Court in the case of Satvinder Kaur Vs. State (Govt. of N.C.T. of Delhi) and Ors. reported in AIR 1999 SC 3596. It is submitted that the victim was sexually assaulted by using foreign article in the year 2017. The cruelty is meted out to the complainant.

6. I have perused the FIR and other documents. The marriage between the parties was solemnized in 2017. It is apparent that after the marriage, the parties have gone for honeymoon to foreign country. The alleged incident of sexual assault had occurred in the year 2017. The FIR was lodged in 2020. The applicant has also contended that he has transferred an amount of Rs.6,51,000/- and 4,89,000/- into the account of the complainant. It is not necessary to deal with issue of jurisdiction in this application. The applicant was granted interim protection by this court with direction to co-operate with the investigation by attending the Investigation officer. The said directions are complied. Custodial interrogation of the applicant is not necessary.

ORDER

- (i) Anticipatory Bail Application No.54 of 2021 is allowed.
- (ii) Interim order dated 25.11.2020 is confirmed.
- (iii) In the event of arrest of the applicant in C.R. No.583 of 2020 registered with Powai Police Station, Mumbai, the applicant be released on bail on executing PR bond in the sum of Rs.25,000/- with one or more sureties in the

like amount;

- (iv) The applicant shall appear before the Investigating Officer as and when called for till the filing of the charge-sheet.
- (v) Application stand disposed of.

(PRAKASH D. NAIK, J.)