

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

ANTICIPATORY BAIL APPLICATION NO. 1661 OF 2021

Arvind Tukaram Wankhede	 Applicant
Versus	
The State of Maharashtra	 Respondent

Dr. Uday P. Warunjikar for Applicant.
Mr. Amit A. Palkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 19th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.354 of 2021 registered at Kurar Police Station, Mumbai, on 30/04/2021, under sections 498-A, 354, 354-D, 323 and 506(2) of the Indian Penal Code (for short 'IPC').

2. Heard Dr. Uday Warunjikar, learned counsel for the applicant and Shri. Amit Palkar, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by the applicant's daughter-in-law on 30/04/2021. She had got married with the applicant's son on 21/09/2020. After that,

she started residing with the applicant's family. Within 15 days of her marriage the applicant and her husband started demanding golden ornaments from her. The informant had categorically refused to comply with this demand. It is her case that, between 08/10/2020 to 09/10/2020 when the informant was alone in the house, the applicant asked for sexual favors from her. She had refused. The applicant then tried to pull her towards him. The informant opposed him. Thereafter he went away from the house. The applicant's other son allegedly threatened the informant not to lodge complaint with the police. The informant told this incident to her husband, but he ignored her. On 26/11/2020, the informant and her husband started residing at Badlapur in a different house. It is her case that, even thereafter the applicant was calling her telephonically and was demanding to keep physical relations with him and used to threaten her. On one occasion, when the applicant had gone to Badlapur to her house, she had locked herself in a room. When her husband returned home, that time the applicant had left their house. It is her case that, at Badlapur the informant's husband was harassing her mentally and physically. On

18/01/2021, the informant's husband dropped her to her native place in District Solapur. Thereafter he never took her back for cohabitation. The informant pleaded with him and his family members for taking her for cohabitation. But nobody obliged. After that, the informant came to the applicant's house at Kandivli, but the applicant and his other son refused to allow her to enter the house. On this basis, the F.I.R. is lodged.

4. Learned counsel for the applicant invited my attention to the WhatsApp messages annexed to this application at Exhibit 'F'. He submitted that, this is the WhatsApp chat between the applicant and the informant. It was dated 17/03/2021. From that conversation, it is clear that the relations between the applicant and the informant were cordial. The applicant had wished her luck for her education, college and further progress. The informant had thanked the applicant and had also requested for fees. The applicant had promised to send fees on the 19th. The conversation shows that the informant was requesting the applicant to tell his son i.e. informant's husband to call her.

5. Dr. Warunjikar, therefore submitted that, in the

background of the allegations about the incident which had allegedly occurred in October 2020, this conversation was simply not possible. He submitted that the F.I.R. itself indicated that, because of desertion by the informant's husband, she was holding grudge against the family of the applicant. He submitted that, in this background, the applicant's custody would not be justified.

6. Learned APP opposed this application based on the statements in the F.I.R. He also pointed out a supplementary statement given by the informant.

7. I have considered these submissions. The supplementary statement is given by the first informant on 12/06/2021. In that supplementary statement, the allegations are in respect of her abortion and she had squarely blamed her husband for that. The supplementary statement does not make any allegation against the applicant. Learned counsel for the applicant submitted that the informant's husband is already granted anticipatory bail by the sessions court. Learned APP, on instructions, agrees with the factual submission. Thus, it appears that, so far as, allegations under section 498-A of IPC and demand

of ornaments are concerned, the other accused who is similarly placed is granted bail. Only allegations made against the applicant are about his demand for sexual favour and one occasion when he made physical advance. However, WhatsApp messages relied on by Dr. Warunjikar do indicate that relationship between the informant and the applicant was cordial and in fact the applicant was helping her in taking education. In this view of the matter, it would not be justified to allow the investigating agency to conduct custodial interrogation, because some doubt is created regarding the informant's story. At this stage, it would not be proper to observe anything further because the matter is under investigation. The applicant has sufficiently made out a case for protection of anticipatory bail. It is made clear that, if the WhatsApp messages are found to be fabricated, the investigating agency can make an application for cancellation of this order.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.354 of 2021 registered at Kurar Police Station, Mumbai, 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) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)