

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

ANTICIPATORY BAIL APPLICATION NO.822 OF 2020

Rahul Jayantnath Tiwari and Anr. .. Applicants

Versus

State of Maharashtra .. Respondent

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Mr.Bhalchandra S. Shinde, Advocate for the Applicant.

Mrs.Veera Shinde, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 15, 2021.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.93 of 2020, registered with Rabale Police Station, Navi Mumbai, for the offence punishable under Sections 498(A), 323, 406, 504 and 506 read with 34 of Indian Penal Code (“IPC”, for short). First Information Report (“FIR”, for short) was lodged by the wife of applicant no.1 on 29th February, 2020. Applicant no.2 is the mother of the applicant no.1.

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Aher**

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2 The complainant has alleged that her marriage was solemnized with applicant no.1 on 7th March, 2019. For initial period of three months, the relations were cordial. Thereafter, the

accused harassed her continuously. The brother-in-law of the complainant had gone to Gulf. On 29th December, 2019, the complainant was assaulted and hence she left matrimonial home. The ornaments of the complainant were retained by the accused and were misappropriated. The accused demanded Rs.20,00,000/-, for purchasing flat.

3 The co-accused viz. father and brother of applicant no.1 were granted anticipatory bail by the Sessions Court.

4 Learned counsel for the applicants submitted that most of time the complainant was residing at her parental home. Applicant no.1 had issued notice dated 19th December, 2019, through his advocate in which it was stated that the complainant shall take away household items gifted in the marriage with immediate effect. The said notice was replied by the complainant through advocate on 1st January, 2020. In the said reply there was no reference of demand of Rs.20,00,000/- for purchasing flat. Applicant no.1 had filed petition for divorce on 1st January, 2020. The complainant had appeared in the said proceedings and filed an application for maintenance. Thereafter, FIR has been registered against the applicants and others. It is further

submitted that all the articles including Shreedhan were taken away by the complainant. The residential premises of the applicants were searched and nothing incriminating was recovered.

5 Learned APP submitted that the complainant has alleged that her ornaments which was in the nature of Streedhan were retained and misappropriated by the accused. During search, nothing could be recovered from the residence. Applicants were not found at the address mentioned in this application. Learned counsel for the applicants, however, countered the submissions of learned APP that the applicants are residing at the address mentioned in this application. Search was conducted at the said premises.

6 On perusal of the FIR and the other documents on record, it is apparent that there is matrimonial discord between the parties. The applicants through their advocate had issued legal notice to the complainant, which was replied by her. The reply does not attribute any allegation of demand of Rs.20,00,000/-. Applicant no.1 has filed petition for dissolution of marriage, which is pending. It was contended by the counsel for

the applicants that the notice in the said proceeding was issued to the complainant and she has filed an application for maintenance. Thereafter, false FIR has been registered.

7 Applicants were granted interim protection vide order dated 7th December, 2020. It is submitted that the applicant has furnished residential address as well as permanent address and contact details to the investigating officer as directed in the interim order dated 7th December, 2020. The residential premises of the applicants were searched and nothing could be recovered. Learned counsel for the applicants, on instructions, submits that except gold chain gifted to applicant no.1, the applicants do not have any other articles in the nature of Shreedhan with her.

8 Considering the factual matrix of the case, the applicants need not be subjected to custodial interrogation.

9 Hence, I pass the following order.

:: ORDER ::

- (i) Anticipatory Bail Application No.822 of 2020, is allowed;

- (ii) Interim order dated 7th December, 2020, is confirmed;
- (iii) In the event of arrest of the applicants in connection with C.R.No.93 of 2020, registered with Rabale Police Station, Navi Mumbai, the applicants be released on bail on executing P.R. Bond in the sum of Rs.20,000/-, each, with one or more sureties in the like amount;
- (iv) Applicant shall co-operate with the investigation and shall appear before the investigating officer as and when called for, till filing of the charge - sheet;
- (v) Anticipatory Bail Application No.822 of 2020, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)