

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

ANTICIPATORY BAIL APPLICATION NO.906 OF 2020

1. Tanveer Alisahab Kumbharikar, &	
2. Tarbez Alisaheb Kumbharikar.	... Applicants
Versus	
State of Maharashtra	... Respondent

Mr. Ramji Kotali, Advocate for the Applicants.
Ms. J.S. Lohokare, APP for the Respondent-State.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 18th JANUARY, 2021

P. C. :-

1. The Applicants are seeking anticipatory bail in connection with C.R.No.89/2020 dated 4.10.2020 registered at Mahad City Police Station, District – Raigad under Sections 420, 380, 494, 328, 406 read with 34 of the Indian Penal Code.

2. Heard Shri Ramji Kotali, learned Counsel for the Applicants and Ms. J.S. Lohokare, learned APP for the State.

3. The FIR is lodged by one Naim Akbar Sawant, who has stated that he was married to one Almas. They had two children from that marriage. They had married in the year 2011. Applicant No.1 – Tanveer was Almas' cousin. He used to visit their house. It is mentioned in the FIR that on 16.12.2019, Almas mixed some intoxicating substance in the milk and made the informant drink it. When he woke up next morning, he found that Almas along with children had left the house. The informant gave complaint about their missing to the police station. On 27.12.2019, Almas, their children and the Applicant Tanveer were brought by the police to Mahad City Police Station. That time, he came to know that Almas along with her children had gone to Kolkata with Applicant No.1 Tanver. She had sold some ornaments on her person at Kolkata. It is alleged that their children were beaten by Applicant No.1. The allegations against Applicant No.2 are that he had helped the couple i.e. Tanveer and Almas to leave together in a car. It is further mentioned in the FIR that even ignoring this incident, the first informant cohabited with Almas for few more days, but, even then her behaviour did

not improve. He then left her at her parental place. He came to know that in March, 2019 Almas had got married to Tanveer. She had taken many ornaments and other articles, worth more than Rs.7 Lakhs from the informant's house. On this basis, the FIR is lodged.

Submissions :

4. Learned Counsel for the Applicants submitted that the first incident of leaving the house had taken place in December, 2019. Alleged marriage between Almas and Applicant No.1 had taken place in March, 2019. The FIR was lodged much belatedly in October, 2020. He submitted that all the allegations are directed against Almas who is granted anticipatory bail by the Additional Sessions Judge, Mangaon, Raigad vide order dated 4.1.2021. He, therefore, submitted that the Applicants also deserve same leniency.

5. Learned Counsel for the Applicants submitted that Almas has filed proceedings under the Protection of Women from Domestic Violence Act (for short, 'D.V. Act') against the

informant, which is still pending. He, therefore, submitted that the Applicants may be granted anticipatory bail.

6. Learned A.P.P, on the other hand, opposed this Application and submitted that all the ornaments and articles of the informant were taken away by Almas and the Applicants were hand in glove with Almas and, therefore, they cannot be granted anticipatory bail.

Reasons :

7. I have considered all these submissions. The entire allegations in the FIR are mainly directed against Almas. The offence under Section 494 of IPC is bailable.

8. The Applicants themselves have not committed any of the offence i.e. the offences under Sections 420, 328, 380, 406 of IPC. There is an unexplained delay in lodging of the FIR. Basically, it is a matrimonial dispute between Almas and the first informant.

9. As pointed out by the learned Counsel for the Applicants, a complaint under the D.V. Act is pending. In this

view of the matter, custodial interrogation of the Applicants is not necessary. They can be protected by an order of anticipatory bail.

10. Hence, the following order.

ORDER

- (i) In the event of their arrest in connection with C.R.No.89/2020 registered with Mahad City Police Station, District – Raigad, the Applicants be released on bail on their executing P.R. bonds in the sum of Rs.25,000/- each (Rupees Twenty Five Thousand Only) with one or two sureties each in the like amount.
- (ii) Anticipatory Bail Application stands disposed of accordingly.

Pradeepkumar
P. Deshmane

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Pradeepkumar P.
Deshmane
Date: 2021.01.21
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(SARANG V. KOTWAL, J.)

Deshmane (PS)