

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

**ANTICIPATORY BAIL APPLICATION NO. 1898 OF 2021
WITH
INTERIM APPLICATION NO. 1963 OF 2021**

Karan Ajay Mehra ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Shalini Sheoron a/w Ms. Maya Updeshi i/by Ms. Sana Mohd. Yusuf Shaikh, Advocate for the Applicant.

Mr. S. R. Agarkar, APP for the Respondent – State.

Mr. Madan Gupta i/by Mr. Hrishikesh Mundargi, Advocate for Intervenor.

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CORAM : PRAKASH D. NAIK, J.

DATE : 23rd SEPTEMBER, 2021

PER COURT:

1. This is an application for anticipatory bail in C.R. No. 689 of 2021 registered with Goregaon Police Station, Mumbai for offences under Sections 498-A, 377, 406, 323, 504 & 506 r/w Section 34 of Indian Penal Code (for short “IPC”). The First Information Report (for short ‘FIR’) was registered on 25th June, 2021.

2. The complaint is lodged by the wife of the applicant.

The facts enumerated in the FIR mentions that the complainant is

actress by profession. She was acquainted with the applicant in 2007. There was friendship between them. They stayed together from 2008. The marriage was solemnized on 24th November, 2012. Thereafter, there were incidents of harassment by the applicant. The ornaments belonging to the complainant were handed over to the accused. On 29th January, 2015 the complainant was subjected to unnatural sex. The applicant suspected her character. On 7th November, 2020 she was assaulted. on 21st February, 2021 There was Roka Ceremony of brother-in-law of the complainant. The applicant misbehaved with her. She was again subjected to unnatural sex. In March-2021 she found that the applicant was chatting with one women and subsequently she learnt that he was having an affair with another lady. The complainant was assaulted in May – 2021.

3. The applicant had preferred an application for anticipatory bail before the Court of Sessions. Interim protection was granted to the applicant by the Sessions Court vide order dated 6th July, 2021. The application was rejected qua the applicant by order dated 3rd August, 2021. The co-accused were granted relief under Section 438 of Cr.PC.

4. Learned Advocate for the applicant submitted that the

allegations in the complaint are false. The dispute is on account of matrimonial discord between the parties. The allegations that the ornaments belonging to the complainant were returned by the accused are false. The complainant has been taking treatment for mental illness since long. The differences between both parties became critical and they could hardly connect with each other despite living under the same roof. The complainant proposed certain terms and conditions which were not agreeable to the applicant. She forwarded E-mail with conditions of settlement on 8th June, 2021. The complainant was well aware of the fact of pawning the Jewellery as well as money to be returned to the Jewellers as stated in her E-mail. Both had visited Vasuki Jewellers for mortgaging and subsequently selling the Jewellery. This fact of complainant being present and giving her consent for sale and mortgage and re-modification of Jewellery has been attested by the Jeweller's in his letter. The amount was transferred by Jewellers through RTGS to the applicant's bank account which were subsequently paid through RTGS in the home loan account of IDBI Bank Ltd. Reliance is placed on the letter written by Vasuki Jewellers and receipt of Rs.18,55,310/-. Reliance is also placed on the details of statements of account of applicant. Amount was credited into the joint home loan account. The list of Jewellery as

stated in the FIR has been purchased from the account of applicant as submitted in the statements of account and most of the list of Jewellery purchased in the name of husband and wife prior to the date of marriage. The complainant had lodged FIR vide C.R. No. 521 of 2021 against the applicant and thereafter, the present FIR was registered with Goregaon Police Station. Custodial interrogation of the applicant is not necessary. The co-accused were granted anticipatory bail. The applicant and the co-accused have cooperated with the investigation. There were no allegations of sexual harassment in the E-mails sent to the applicant on 8th June, 2021. The FIR is after thought. The amount referred to in the FIR by the complainant is the amount transferred from the complainant's account, which was subsequently transferred in the home loan account of IDBI Bank owned jointly by both of them. The applicant had paid substantial amount to wife and his mother-in-law. The applicant has also filed the complaint before the Court of Magistrate which is pending.

5. Learned APP submitted that the streedhan is not recovered. Medical examination of the accused was not conducted. Investigation is in progress.

6. Learned Advocate for the complainant Mr. Mundargi

submitted that the victim/complainant was subjected to physical and mental cruelty. There are incidents of assault. The E-mail referred by learned counsel for the applicant was undisputedly without prejudice and it was not expected that the allegations which are subject matter of the FIR would be reflected in the E-mail which was forwarded by the advocate for the complainant while the parties were exploring the settlement. The complainant was assaulted in the past. The FIR was registered. The applicant has used the word 'bipolar' qua the complainant's illness casually. The victim was subjected to unnatural sexual assault. She was subjected to assault, abuses and intimidation. The applicant was involved in character assassination of the complainant. The applicant is not entitled for relief under Section 438 of Cr.P.C. Pre-arrest bail can be granted in exceptional circumstance. Applicant do not deserve such relief.

7. Undisputedly, the applicant and the complainant are husband and wife. They were residing together since 2008. The marriage was solemnized on 24th December, 2012. The FIR is lodged after a period of about 8 years from the date of marriage and 13 years from the date of their acquaintance. The case relates to matrimonial discord between the parties. On factual analysis and considering submissions of both sides I find that, custodial

interrogation of applicant is not necessary.

8. Hence, I pass the following order:

ORDER

- (i) Anticipatory Bail Application No. 1898 of 2021 is allowed;
- (ii) In the event of arrest of the applicant in connection with in C.R. No. 689 of 2021 registered with Goregaon Police Station, Mumbai, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the investigating officer on 4th, 5th & 6th October, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for.
- (iv) Anticipatory Bail Application and Interim Application stand disposed of accordingly.

(PRAKASH D. NAIK, J.)