

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

ANTICIPATORY BAIL APPLICATION NO.1086 OF 2020

Shaikh Afaq Ahmed Mohammed Ali .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr.Hemant Kenjalkar, Miss.Minal Kamble, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent - State.

Mr.N.V. Kardel, Nayanagar Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 14, 2021.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.I-88 of 2020, registered with Nayanagar Mira Road Police Station, for the offences punishable under Sections 498-A, 406, 323, 504 and 506 read with 34 of Indian Penal Code ("IPC", for short).

2 Complainant is the wife of applicant. The marriage between the complainant and the applicant was performed on 10th May, 2013. FIR was lodged on 7th March, 2020, alleging that

**RajeP.
Aher**

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the applicant had caused harassment to her amounting to cruelty and that her ornaments were misappropriated and causing criminal breach of trust.

3 The applicant and others had preferred an application for anticipatory bail before the Sessions Court. During the pendency of the application before the Sessions Court, interim protection was granted to the applicant vide order dated 16th October, 2020. Applicant was also directed to co-operate with the investigation and not to tamper the prosecution witnesses and evidence. The parents, brother and sister-in-law of the applicant had also preferred an application for anticipatory bail before the Sessions Court, which is allowed vide order dated 8th December, 2020. At the time of hearing the application for anticipatory bail preferred by the applicant, the investigating officer filed a report opposing the said application. In the said report, it was stated that during the pendency of interim protection, the applicant threatened the complainant and N.C. has been lodged by the complainant under Sections 504 and 506 of IPC. Learned Sessions Judge took note of the said complaint and rejected the application of the applicant by order dated 8th December, 2020.

4 Learned counsel for the applicant drew my attention to the say filed by police opposing the application for anticipatory bail. It is further submitted that while granting anticipatory bail to the other accused, learned Sessions Judge had observed that the dispute was in the nature of domestic quarrels. It is submitted that on the date of lodging FIR, the jewellery was recovered and panchanama in that regard was recorded, which is signed by first informant.

5 Learned APP submitted that while interim protection was in force, the complainant was threatened by the applicant. The entire Streedhan is not recovered and only part jewellery is recovered. Applicant may indulge in threatening the complainant, hence, the relief may not be granted.

6 Undisputedly, the applicant was granted interim protection by learned Sessions Judge. He was directed to co-operate with the investigation. On the date of lodging FIR, jewellery was recovered. The parents and sisters of the applicant were granted anticipatory bail by the Sessions Court. The only ground for rejection of application is that applicant had threatened complainant while he was on interim protection. The apprehension of threat can be taken care with stringent

condition.

6 In the light of factual aspects of the matter, applicant
may be granted bail on certain conditions.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.1086 of 2020, is allowed;
- (ii) In the event of arrest of applicant in connection with C.R.No.I-88 of 2020, registered with Nayanagar Mira Road Police Station, the applicant be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall report the investigating officer, as and when called for and shall co-operate with the investigation;
- (iv) Applicant shall not tamper the prosecution evidence;
- (v) Applicant shall not visit the vicinity i.e. the place

of the residence of the informant;

- (vi) Anticipatory Bail Application No.1086 of 2020,
stands disposed of accordingly.

(PRAKASH D. NAIK, J.)