

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1108 OF 2020

Nikhil Vishwanath Amin	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Ms.Gulestan M. Dubash a/w Mr. Durgesh Jaiswal a/w Mr. Harshal Damania, Advocate for the Applicant.

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

Mr. Mallimath D. Doke, A.P.I. Bhiwandi City Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 16th FEBRUARY, 2021

PER COURT:

1. This is an application under Section 438 of Code of Criminal Procedure, 1973 preferred by the applicant seeking grant of pre-arrest bail in connection with C.R. No. 0371 of 2020 registered with Bhiwandi City Police Station, Thane under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code.

2. The prosecution case in brief is that, informant is the wife of applicant-accused. Jayashree is her mother-in-law and Nikita is her sister-in-law. She was married to applicant on 11th February, 2019. After three months of marriage, her in-laws started harassing, abusing and insulting her. The present applicant was addicted to liquor. He was abusing and beating complainant. On 10th

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October, 2020, she found that the ornaments worth 31 tola were misappropriated and taken away by sister-in-law. Later on she lodged an FIR against all the accused.

3. Mr. Jaiswal, learned Counsel for the applicant, submits that the bare reading of the FIR would show that, except the alleged cruelty, no other accusations are levelled against the applicant-husband. Having regard to the nature of case and the fact that no custodial interrogation is necessary, the present application deserves to be allowed.

4. It is seen from the FIR that the ornaments of informant were allegedly taken away by sister-in-law of the applicant, who has been admitted to pre-arrest bail. Whereas, the Court was pleased to reject the application of applicant on the ground that the material allegations are levelled against him and that the ornaments are still not found which were shown to be kept in the house itself.

5. The observation of the learned Sessions Judge appears to be prima facie contradictory inasmuch as accusations against sister-in-law were that she had taken away those ornaments and despite that she has been granted anticipatory bail.

6. Learned APP submitted that the complainant was assaulted by applicant which is fortified by the medical certificate.

Statement of one of the relatives of the applicant was recorded during the course of investigation, who refers to the conduct of the applicant trying to get intimate to said witness.

7. The applicant had sent legal notice to the complainant for divorce on 4th August, 2020. Thereafter, he filed divorce proceedings and the summons was served upon the complainant on 22nd October, 2020. Apparently, thereafter, the FIR was registered on 12th November, 2020.

8. The applicant was granted interim protection by order dated 23rd December, 2020.

9. Considering the factual aspects of this matter, the applicant need not be subjected to custodial interrogation. Interim protection deserves to be confirmed.

ORDER

(i) Anticipatory Bail Application No. 1108 of 2020 is allowed;

(ii) Interim order granted by this Court is confirmed.

(iii) In the event of arrest of the applicant in connection with in C.R. No. 0371 of 2020 registered with Bhiwandi City Police Station, Thane, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount;

(iv) The applicant shall attend the concerned Police Station as and when called for till filing of charge-sheet.

(v) Anticipatory Bail Application stands disposed of accordingly.

10. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)