

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1657 OF 2019

Vikas Sawhney	...Applicant
Versus	
The State of Maharashtra	...Respondent

.....

Mr. Niranjan Mundargi i/b Mr. Santosh Musale, Advocate for the Applicant.

Ms Anamika Malhotra, APP for the Respondent – State.

Mr. Abdul H. Y. Kotwala, Advocate for Respondent No.2 from Legal Aid.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 12th MARCH, 2021.

PC :

1. The applicant is apprehending arrest in connection with C.R. No. 123/19 registered with NRI Sagari Police Station, for the offences under 494 and 498(A) of Indian Penal Code. The First Information Report (FIR) was lodged on 4th May, 2019.

2. The marriage between the applicant and the complainant was solemnized on 22nd February, 2002. The complainant has alleged that she was continuously harassed by the applicant/ accused. She was forced to abort child in 2004. Thereafter, son was born in 2005. The harassment continued. The applicant /accused had married another lady, when the first marriage was in subsistence.

3. Learned counsel for the applicant submits that the FIR has been registered belatedly. The custodial interrogation of the applicant is not necessary. The alleged incident of abortion had occurred in 2004. Out of wedlock they have one child presently aged about 16 years.

4. Learned APP submitted that specific allegations are made against the applicant about harassment. The applicant is involved in three other cases registered with Bandra Police Station, Cyber Police Station and Vashi Police Station.

5. Learned counsel for the intervener tendered written submissions to oppose application. It is submitted that apart from the harassment caused to the complainant, the applicant had committed offence of bigamy, which is fortified by photographs. The complainant was threatened, N.C. complaint was lodged by on 9.8.2016, 4.9.2018 and 21.01.2019. It is submitted that the offence under Section 313 of IPC is made out but same is not invoked in the present case.

6. The marriage was solemnized between the parties in 2002. The FIR was lodged in 2019. The applicant was granted interim protection by this Court vide order dated 26th July, 2019 with direction to cooperate with the investigation. The alleged incident of

forced abortion had occurred in 2004. No complaint in that regard was lodged after the incident. The parties have child aged 16 years. Though there are other cases registered against applicant, the present dispute arises out of matrimonial discord between the parties. In the light of facts of this case, the applicant need not be subjected to custodial interrogation.

ORDER

- i) Anticipatory Bail Application No. 1657/2019 of is allowed;
- ii) The interim protection granted to the applicant vide order dated 26th July, 2019, is confirmed;
- ii) In the event of arrest of applicant in C.R. No. 123/2019 registered with NRI Sagari Police Station, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25000/- (Rupees Twenty Five Thousand Only), with one or more sureties in the like amount;
- iii) The applicant shall report investigating officer as and when called for;
- iv) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)