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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.1179 OF 2022

SUNITA W/O. DHANANJAY BHOSALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Prashant P. Giri h/f Ms. S.V. Dound

APP for Respondent/State : Mr. S.B. Narwade

Advocate for Respondent No.2 : Mr. M.D. Gitte

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CORAM : S.G. MEHARE, J.

DATED : 06th OCTOBER, 2022

PER COURT:-

1. Learned counsel Mr. M.D. Gitte appears for respondent no.2 and filed her affidavit on record. It be taken on record.
2. Heard learned counsel for the applicant, learned APP for the State and learned counsel for respondent no.2/victim.
3. Learned counsel for the applicant has taken the Court to the FIR and argued that considering the FIR and its face value, it appears that the complainant resided with her husband for 11 days only. The allegations levelled against the applicant were that when the complainant complained her about the unnatural intercourse by her husband, she did not support her. She had suppressed from her that her son was married before her marriage. He has also referred to the first report lodged by the victim to the police station at Bengaluru in the State of Karnataka and pointed out that there were no

allegations of unnatural intercourse. She simply had made the complaint against the husband alleging that he scolded her as she poured more quantity of salt in food and abused her in filthy language. On the said day, her brother was also with her. The complainant's husband was called by the police station. He has submitted the reply denying all the allegations levelled against him.

4. It is also argued by the learned counsel for the applicant that considering the allegations levelled against the applicant, no serious offence is made out. Everything, about the past of her son was made public. He had a divorce in the year 2020 and thereafter in 2022, he married to the complainant. The complainant and the applicant belongs to the same caste. The parents of the complainant were well aware about the first divorce of her son. Hence, the allegations of suppressing the fact of first marriage of her son cannot be believed.

5. Learned APP has referred to the medical papers and vehemently argued that there were injuries on the person of the complainant. However referring to the provisional medical opinion, he has stated that there were no signs of unnatural sexual intercourse. He has vehemently opposed the application contending that a fraud has been played with the complainant by suppressing the first marriage of her husband. She was ill-treated. Therefore, the application deserve to be dismissed.

6. Learned counsel Mr. Gitte appearing for the victim has opposed the application contending that the unnatural intercourse was repeatedly done by her husband against her will. It was shameful acts. Hence, she could not disclose to her parents or elsewhere. She was hopeful that a day will come in her life that her husband would treat her well. The applicant had suppressed the first marriage and divorce of her son. Therefore, she has played a fraud with the emotions of the complainant. The in-laws were not supporting her.

7. Perused the papers produced by learned counsel for the applicant, learned APP and learned counsel for the victim. The complainant lodged the report first time on 05.07.2022 with Police Station Madiwala at Bengaluru. In the said report, there were no allegations against her husband that he does unnatural intercourse with her nor it has been alleged against the applicant that she did not support her and suppressed the first marriage of her son. In the said report, she has stated that she would fight in the Family Court against applicants in the State of Maharashtra. Further if anything happens to her, her husband would be responsible. The mutual divorce decree placed on record by the learned counsel for respondent no.2/victim shows that he got mutual divorce from his first wife on 24.07.2020 thereafter, he got married to the complainant on 06.02.2022. There were no allegations of playing fraud as such in her first report. The possibility of cooking a story involving the entire family with

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allegations of playing fraud and demanding dowry, unnatural intercourse cannot be ruled out.

8. Be that as it may, considering the allegations levelled against the applicant, there is no material to show that her custodial interrogation is essential. Hence, the following order :

ORDER

(A) Application is allowed.

(B) The order granting interim protection to the applicant dated 15.09.2022 is confirmed on the same terms and conditions.

(S.G. MEHARE, J.)