

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

ANTICIPATORY BAIL APPLICATION NO. 93 OF 2022

Dheeraj Gangadhar Shekha	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Suresh Barne i/b. Pushpa Deshmukh for Applicant.

Ms. Rutuja Ambekar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st JANUARY, 2022
(through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.357 of 2021 registered at Navghar Police Station, on 19/04/2021, under sections 498A, 313, 504, 506, 323 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Suresh Barne, learned counsel for the applicant and Ms. Rutuja Ambekar, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by wife of the applicant. She has stated that, she got married with the applicant on 31/08/2017. After the marriage,

initially they lived happily. After some days one girl came to reside in their matrimonial house. On 09/09/2017, she saw the applicant and that girl together in the bedroom. The informant got upset and complained to the applicant's parents, but they ignored her and instead, applicant's mother slapped her. There are allegations that, from that day onwards there used to be constant harassment at the hands of applicant, his parents and his brother.

4. On 10/10/2017, the applicant and the informant started residing at Kalyan. The allegations are that the informant became pregnant, but the applicant gave her some pills because he did not want a child. The informant took them. Those pills caused abortion.

5. On 18/01/2018, the applicant took the informant to Kerala to reside with his family. There again the applicant's sister abused her and tried to beat her. The informant called her brother. He tried to pacify applicant's family. The relations were good for some days.

6. On 07/03/2018, the applicant and the informant came back to Kalyan. The applicant was addicted to liquor and after

consuming liquor he used to abuse and beat the informant. On 07/09/2018, the applicant got angry because the informant had gone out for shopping with her friend. Therefore, the applicant left Kalyan and went to Kerala and asked the informant to go back to her parent's house. Since then the informant was residing with her parents. On this basis the F.I.R. was lodged.

7. Learned counsel for the applicant submitted that the informant had filed R.C.C.No.406 of 2020 on 24/01/2020 in the court of Chief Judicial Magistrate against the applicant and his family members under section 498-A of IPC, on the same allegations. He submitted that the informant has filed a proceeding under the Protection of Women from Domestic Violence Act, as well as, under section 125 of Cr.p.c. He submitted that, the informant is just trying to harass the applicant by filing as many proceedings as possible. He submitted that, in the background of these allegations, custodial interrogation of the applicant is not necessary. The informant is residing separately from 07/09/2018 and the F.I.R. is lodged on 19/04/2021.

8. Learned APP opposed this application. She submitted

that the allegations in the F.I.R. are slightly different from those in the complaint, therefore, it should be treated separately. She relied on the averments in the F.I.R. to oppose this application.

9. I have considered these submissions. As far as, case of abortion is concerned, that incident had taken place in the year 2017 and the informant had not made any grievance till lodging of the complaint in the Magistrate's court. For that, applicant's custody is not required today. The F.I.R. itself shows that, both of them are residing separately from 07/09/2018. The F.I.R. is lodged on 19/04/2021. The informant had initially approached the court of Magistrate on similar allegations and that time she had sought order under section 156(3) of the Cr.p.c. But it was not granted and the informant did not take any legal steps, instead, she directly filed this F.I.R. Considering all this background and also taking into account the fact that the couple is residing separately since 07/09/2018, the applicant's custodial interrogation at this belated stage is not necessary. He can be protected by an order of anticipatory bail. However, he is directed to co-operate with the investigation.

10. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.357 of 2021 registered at Navghar Police Station, the applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two local sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)