

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

ANTICIPATORY BAIL APPLICATION NO.254 OF 2022

Vishwanath Prabhakar Bagul Applicant

versus

State of Maharashtra Respondent

.....

- Mr.Jayant J. Bardeskar, Advocate for Applicant.
- Mr.P H. Gaikwad, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 03rd FEBRUARY, 2022
(through video conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.776/21, dated 13/11/2021, registered with Kashimira Police Station, under sections 498-A, 494, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. Heard Mr.Jayant J. Bardeskar, learned counsel for the Applicant and Mr.P H. Gaikwad, learned APP for the State.

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3. The FIR is lodged by the Applicant's wife. She has stated that she got married with the Applicant on 07/05/2009. After her marriage, the Applicant and the informant started residing at Pachod in the house of the Applicant's elder brother. After about 8 days from her marriage, the Applicant started beating and harassing her. She was forced to keep physical relations with the Applicant. In April 2013, they had their first daughter. After that, the Applicant and his family members started harassing her more. It is her case that, in 2014, she had tried to commit suicide. After that, the Applicant stopped beating her, but still used to abuse her and used to suspect her character. The Applicant, the informant and their daughter started residing separately at Ambad, Jalna. The informant was working as a teacher in a school and the Applicant was working as Gramsevak. It is her case that the Applicant used to express his suspicion about her fictitious relations with the school authorities and parents of the students. Finally, getting fed up, the informant left him and started residing separately in the house of her brother from 08/05/2018. After a few days, she

went to Miraroad and started residing with her uncle and aunt. The Applicant used to visit that place also, purportedly to meet their daughter and then used to raise quarrels with the informant and used to spread humors in the neighbourhood about the informant's character. The informant came to know that the Applicant had got married on 12/07/2020 inspite of subsisting marriage with the informant. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the FIR does show that the first informant is residing separately from the Applicant from 08/05/2018. The FIR is lodged on 13/11/2021. During all these years she had not expressed her grievance before any forum. Therefore the FIR is much belated and shows a deliberate attempt to implicate the Applicant falsely. He submitted that the Applicant, on his part, had filed an application for Restitution of Conjugal Rights on 29/07/2019. Secondly, in the year 2020, it was decided that they would take divorce by mutual consent and the Petition was to be filed by

both the parties, but that Petition was not actually filed. This also shows that the informant had decided to separate from the Applicant and there was no cause to make allegations of any nature which are mentioned in the FIR.

5. Learned APP produced the investigation papers before me. They contain statements of the informant's relatives i.e. her brother, his wife, neighbours, friends etc. They basically support the version of the informant mentioned in the FIR. There is some reference to the attempt made by her of committing suicide in the year 2014. As far as her committing suicide in the year 2014 is concerned, after that also parties were residing together. Since May 2018 they started residing separately. The FIR is lodged after much belated stage. In the meantime, the Applicant had instituted proceedings for Restitution of Conjugal Rights. There was an attempt to file Petition for divorce by mutual consent. The incidents mentioned in the FIR are stale incidents and after all these years, the custodial interrogation of the Applicant in the background of this development is not

necessary. As far as the second marriage of the Applicant is concerned, the offence u/s 494 of the IPC, as pointed out by learned counsel for the Applicant, is bailable. Other allegations are general in nature and are made against family members who are granted anticipatory bail. In this view of the matter, the Applicant can also be granted anticipatory bail. It is made clear that these observations are restricted to passing of this order of anticipatory bail only and the trial Court shall not be influenced by these observation while deciding the trial.

6. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.776/21, dated 13/11/2021, registered with Kashimira Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two 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.)