

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

ANTICIPATORY BAIL APPLICATION NO.359 OF 2022

Anand Umashankar Gupta Applicant
Versus
The State of Maharashtra & Anr. Respondents

Mr. D.R. Tiwari, Advocate a/w. Mohit Darji, for the Applicant.
Mr. P.H. Gaikwad, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.
DATE : 16th FEBRUARY, 2022

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R.No.758/2021 dated 3.11.2021 registered at Navghar Police Station under Sections 498-A, 406, 315, 377, 354, 323, 504, 506 read with 34 of the Indian Penal Code.

2. Heard Shri D.R. Tiwari, learned counsel for the applicant and Shri P.H. Gaikwad, APP for the State.

3. The FIR is lodged by the applicant's wife. She has stated that she got married with the applicant on 27.1.2014. At that time the informant's father had spent substantial expenses for the wedding and had given ornaments and other

articles to the applicant and his family on their demand. After the marriage, she started residing at her matrimonial house with the applicant, his parents, one of the sisters of the applicant and brother of the applicant. There are allegations that after one year from the marriage, the applicant's mother removed the informant's ornaments and kept them with herself. The FIR basically makes allegations against the applicant's mother and sister. There are some allegations against the father of the applicant as well. Some serious allegations are made against the applicant's brother that he was making unwelcome advances towards the informant. The allegations against the applicant are that inspite of this harassment by other family members, he never supported her and on the contrary used to scold the informant. The FIR mentions that on some occasions, she had gone to her parent's house and after some discussion with the elders she was brought back to the matrimonial house. There are some vague allegations that on some occasions the applicant used to beat her. On one occasion the applicant and his mother had

demanded Rs.5 Lakhs from the informant's father. She started residing at her parent's house but in April, 2019 the applicant's parents brought her back to her matrimonial house. At that time, the applicant's behaviour had changed. There are allegations that he did not have proper marital relations with her. There are some allegations that he was subjecting the informant to unnatural sex. The informant had seen some photographs of the applicant with another girl. In the meantime, in November 2019 the informant became pregnant. At this point of time, there are clear allegations in the FIR that the applicant's mother abused the applicant himself. On 7.11.2019, when the applicant was not in the house and had gone to attend his office, the applicant's mother and brother assaulted her. Due to which on the next day, she suffered miscarriage. The allegations against the applicant are that after her miscarriage, the applicant did not support her mentally. On 5.12.2019, the applicant's parents and sister went to the informant's parent's house and abused all of them. On this basis, the FIR is lodged.

4. Learned counsel for the applicant submitted that admittedly the informant is residing separately since November, 2019 and the FIR is lodged on 3.11.2021. This clearly shows that the FIR was lodged as an afterthought to harass the applicant and his family members. The applicant has initiated divorce proceedings in October, 2021 and as a counter-blast this FIR is lodged. He submitted that the informant also has initiated the proceedings under the Protection of Women from Domestic Violence Act. In this background, the applicant's custodial interrogation is not necessary.

5. Learned APP opposed this application and he relied on the contents of the FIR.

6. I have considered these submissions. The FIR if read as a whole does show that the main allegations are against the applicant's other family members. The main allegation against the applicant is that he was not supporting the informant when all this harassment was caused to her.

7. In the FIR, at some place, there was some

reference to the demands made by the applicant and also to the informant having been subjected to unnatural sex. All these allegations are made by the informant much belatedly. She was residing separately since November, 2019 and the FIR is lodged in November, 2021 i.e. almost after two years.

8. This FIR was lodged after the applicant had initiated divorce proceedings. That fact will have to be taken into consideration.

9. Besides this, there are some WhatsApp messages exchanged between the informant and the applicant which are annexed to this application and there are indications that the applicant and the informant were having good terms and her grievance was only against the other family members. On some occasions, in December, 2019, the applicant had sent messages asking her to take care of herself.

10. The FIR itself indicates that when she became pregnant the applicant's mother had abused the applicant himself. Therefore, there are definite indications that the applicant's family was harassing the informant and they had

some grudge against the applicant as well. The applicant apparently was caught between his family members and the informant. However, all these contentious issues will have to be decided during the trial.

11. In this background and on the basis of the above discussion, his custodial interrogation is not necessary. He can be protected by the order of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.758/2021 registered with Navghar Police Station, the applicant is directed to be released on bail on his furnishing a 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) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Digitally signed by
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