

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

ANTICIPATORY BAIL APPLICATION NO. 498 OF 2022

Mr. Sidharth Avtar Kak

..Applicant

v/s.

The State of Maharashtra
(at the instance of Kashmiri P.Stn.)

..Respondent

Mr. Rahul Shelke for the Applicant.

Mr. M.G.Patil, APP for the State.

API Smita Parab from Kashmiri Police Stn. Present.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : 15th MARCH, 2022.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No.I-875 of 2021 registered with Kashmiri Police Station for the offences under Section 498A, 323, 504, 506 r/w. 34 of Indian Penal Code.

2. Heard Mr. Shelke, Counsel for the Applicant and Shri Patil, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The crime against the Applicant was registered pursuant to the FIR lodged by his wife. A perusal of the said FIR indicates that the Applicant and the Complainant were married on 23.09.2012. The

Complainant has alleged that since April 2021, the Applicant has left the house. It is thus evident that the Applicant and the Complainant are not residing together since April 2021. The FIR is lodged on 20.12.2021 and the allegations of cruelty relate to the incident starting from 2014. The records indicate that the Complainant had earlier lodged some report to the police on 18.10.2021, pursuant to which the Applicant was called for counseling. It is stated that the settlement talks were going on. The records indicate that the matter could not be resolved amicably and the Applicant had filed Divorce Petition on 12.11.2021. The complaint has been lodged after filing of the said divorce petition. The main allegation in the Complaint is that the Applicant is having extra marital affair. There is no prima facie material to substantiate the said contention. Even otherwise, such allegation, *per-se* does not constitute cruelty within the meaning of Section 498A of IPC.

4. Considering the nature of the accusations, in my considered view, this is a fit case for grant of pre-arrest bail. Hence the application is allowed on the following terms and conditions.

- (i) In the event of arrest of the applicant in Crime No.I-875 of 2021 registered with Kashimira Police Station, the Applicant be released on bail on furnishing PR bond of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.

(ii) The Applicant shall report to the Investigating Officer for four days from 21.03.2022, and further as and when required by the Investigating Officer for the purpose of investigation and interrogation.

(iii) The Applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer.

(iv) The Applicant shall not change his residential address without prior intimation to the Investigation Officer.

(v) The Applicant shall not interfere with the complainant and the other witnesses in any manner.

PRASANNA P
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(ANUJA PRABHUDESSAI, J.)