

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

ANTICIPATORY BAIL APPLICATION NO. 962 OF 2022

Nathu Suryabhan Padghan

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Swapnil Wankhede for the Applicant.

Mr. S.H.Yadav, APP for the State.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : 11th APRIL, 2022.**

P.C.

1. This is an application under Section 438 Cr.P.C. for pre-arrest bail in C.R.No.333 of 2021 registered at Khadakpada Police Station, Kalyan for offences under Section 323, 498A, 504, 507 r/w. 34 of Indian Penal Code.

2. Heard Mr. Wankhede, learned Counsel for the Applicant and Shri Yadav, 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 aforesaid crime came to be registered pursuant to the FIR lodged by Vidhya Nathu Padghan, wife of the Applicant. Perusal of the FIR reveals that the Applicant and the Complainant new each other since the year 2014. The Complainant has stated that in the year 2014, they got married in the house of a friend Babita, and started living as husband

and wife in her parental home. She claims that during this period the Applicant had taken money from her on the pretext of medical expenses of her father and other expenses. The Complainant has stated that in June 2016, they got married again with consent of both the families. She claims that soon thereafter the Applicant started abusing and assaulting her. She learnt that the Applicant was having extra marital relationship. She had lodged complaint against him in the year 2018 and again in the year 2020. The reason for filing FIR in question was that she had learnt that he was already married prior to their marriage. However, she stated that she does not have any documentary evidence to prove that the Applicant was already married.

4. Learned APP states that the Complainant had produced some photographs before the Sessions Court. He however concedes that till date the Investigating Officer has not verified the authenticity of the documents. The Investigating Officer has not investigated whether the Applicant was earlier married. He has not interrogated either the Complainant or the Applicant in this regard.

5. The allegations of physical and mental cruelty relate to the incident of the year 2018. The allegations of extra marital relationship would not prima facie constitute cruelty within the meaning of Section 498A. There is no prima facie material to show that the Applicant was already married prior to 2016.

6. Considering the above facts and circumstances, 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 C.R.No.333 of 2021 registered at Khadakpada Police Station, Kalyan, the Applicant be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twentyfive 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 two days on 18th and 19th April, 2022, 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.

(ANUJA PRABHUDESSAI, J.)

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