

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 1255 OF 2021

Rajesh Anandrao Nikam ...Applicant

Versus

State of Maharashtra & anr. ...Respondents

Mr. Dilip Bodake, for the Applicant.

Ms. M. R. Tidke, APP for the State/Respondent no.1.

Mr. S. S. Kadam, for Respondent no.2.

CORAM: N. J. JAMADAR, J.

DATED : 16th JUNE, 2022

Order:-

1. This application is preferred for pre-arrest bail in connection with CR No.333 of 2021, registered with Satara City Police Station, for the offences punishable under Section 354, 323, 509, 504, 427 read with of the Indian Penal Code, 1860, ("the Penal Code") and Sections 8 and 12 of Protection of Children from Sexual Offences Act, 2012 ("the POCSO").

2. The first informant – respondent no.2 is the wife of the applicant. The first informant has a daughter by her first husband. The applicant solemnized marriage with the first informant in the year 2008. There was marital discord.

3. In the FIR it was alleged that on 16th April, 2021 the applicant and his friend – co-accused, came to the premises at

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Bhandari Plaza, where the first informant resides. The applicant allegedly abused and insulted the first informant and her daughter. It is alleged that the applicant assaulted the first informant and the daughter of the first informant also. While the applicant was assaulting and exploiting the daughter of the first informant, the co-accused had allegedly caught hold of the first informant.

4. By an order dated 17th May, 2021 this Court had granted interim pre-arrest bail noticing that there were multiple proceedings between the parties on account of the matrimonial dispute.

5. The learned Counsel for the applicant submits that post completion of investigation charge-sheet has been lodged. The first informant and the applicant have also amicably resolved all the disputes. The marriage is dissolved by a decree of divorce by consent in HMP No.264 of 2021.

6. The first informant has filed an affidavit giving her no objection to make the order of interim pre-arrest bail absolute.

Paragraphs 3 to 7 of the said affidavit read as under:

“3. I say that we have already settled the dispute and have also filed consent terms before Mediator, Family Court, Satara in HMP No.264 of 2021 and I and applicant have filed divorce petition by mutual consent and to settle all civil and criminal disputes and thereafter as per settled terms

applicant and me already paid the amount of loan in Central Bank of India, Satara. And Central Bank of India, Satara gives "No Dues" Certificate. Thereafter as per terms applicant transfer the said Flat No. S. T. 6, Bhandari Plaza, Godoli, Satara in my name. And applicant also transferred Electricity Meter in my name :The Copy of consent terms before Family Court Satara in HMP No.264/2021 is hereto annexed and marked as "Exhibit-A".

4. I say that thereafter I have agreed before the Mediator, so I have filed withdrawal application without any conditional in Cri. Misc. Application No.211/2018 filed by me before the 5th J.M.F.C. Satara under the Domestic Violence Act and said was withdrawn by the Court on 1/12/2021.

5. I say that therefore, I have not any type of grievance as against the applicant.

6. I say that, I am aware that the present affidavit has been filed in present Anticipatory Bail Application arising pursuant to my complaint, I say that, I have no objection, if the present application for anticipatory bail is allowed.

7. I say that this affidavit is filed on my own free will without any fear or pressure or under influence. Considering the above fact, I am giving consent for allowing this application as prayed by the applicant as the disputes between my and applicant was settled and also terms are agreed before the Mediator, to withdraw all cases against each other. Hence this affidavit."

7. In view of the aforesaid developments, and the fact that the first informant and the applicants have amicably resolved all the disputes and even investigation is complete for all intent and purpose, at this stag, the custodial interrogation does not seem warranted. Thus, the interim order of pre-arrest bail deserves to be made absolute.

8. Hence, the following order:

: O R D E R :

(i) The application stands allowed.

(ii) Interim order of pre-arrest bail dated 17th May, 2021 is made absolute.

(iii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

[N. J. JAMADAR, J.]