

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO.2298 OF 2022**

Shri Bhagwan Maharu Patil ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr.Rajaram Bansode, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent/State.

Mr.Prabodhan Yejare, API, Nerul Police Station present.

CORAM : SMT. BHARATI H.DANGRE, J.

DATE : SEPTEMBER 15, 2022.

PC.:

1. In continuation of the earlier order, the learned counsel for the applicant has placed on record a compilation of documents which include the order passed by the Magistrate in the Domestic Violence Proceeding No. 111 of 2014 and the order passed by the Sessions Court holding the said orders in Criminal Applications.

In the two proceedings it can be seen that there is a reference to the premises being rented out by the wife in favour of a tenant which form the subject matter of the complaint lodged by the complainant. Scanning the entire material what has surfaced is, being aggrieved by the said order, there are two writ petitions filed in the Aurangabad Bench of this court. A copy of the writ Petition Nos.523 and 524 of 2021 is also placed before me.

2. It appears that in the said writ petitions the petitioner who is the applicant has made a specific statement to the effect stating that the

petitioner-husband is fixed with the liability of Rs.15,000/- per month under the Domestic Violence Act alongwith an order of Rs.6,000/- per month to be paid under section 125 of Cr.PC. While calling in question the order granting maintenance to her and her two sons, specific avernment is made to the following effect; "Apart from this, the respondent No.1 has also given a flat and she is earning Rs.12,000/- rent and she is getting Rs.33,000/- per month and the petitioner is staying in the single room which is partitioned in the said flat. Copy of the rent agreement executed by respondent No.1 was annexed at Ex.I."

3. The complaint filed by the wife with the police station revolve around this agreement wherein she state that she has never rented out the premises nor she has received any deposit or rent. Apart from this, there is also a reference to a letter addressed to the Judge at Jalgaon, by the Secretary of the society intimating that the flat was rented by her.

The complainant who is present in the court categorically make a statement as on date the portion of the flat is in her possession.

When the entire scenario is perused, it can be seen that the applicant has made an attempt to avoid an order of maintenance and made a specific statement that the flat which was given to his wife is yielding monthly income to her. In any case, it is submitted that Writ Petition No. 523 of 2021 is withdrawn and in any case, the said document was not taken into consideration and the amount for maintenance was not varied on the basis

of the said document. Since the allegations are in respect of the accusation made in the application and also a letter from the Secretary, in my considered view, since this document did not in any way prejudice the complaint and particularly taking into consideration that applicant is a teacher and the complainant- the wife and her sons are surviving on his salary, I deem it appropriate to grant him protection from arrest, as in the peculiar facts when the documents produced by him are acted upon, no custodial interrogation is warranted. Hence, the following order:-

ORDER

- (a) The application stands allowed.
- (b) In the event of arrest, the Applicant/Accused namely - Shri Bhagwan Maharu Patil in C.R.No.275 of 2022 registered with Nerul Police Station for the offence punishable under sections 420, 465, 467, 468 and 471 of the Indian Penal Code be released on bail on his furnishing PR. bond of Rs.25,000/-(Twenty Five Thousand only) with one or two sureties in the like amount.
- (c) The applicant shall report to the concerned police station on 20th to 22nd September, 2022 between 3.00 p.m. to 5.00 p.m.
- (d) The applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the prosecution evidence.

(SMT. BHARATI H. DANGRE,J.)