

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2891 OF 2022

Vinay Madhukar Bhoir .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Sunny A. Waskar with Mr.Shamish Marwadi for the Applicant.

Mr.H.J.Dedhia, A.P.P. for the State/Respondent.

API Digvijay Ashok Patil, attached to Malad Police Station, present.

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CORAM: BHARATI DANGRE, J.
DATED : 17th OCTOBER, 2022

P.C:-

1. The applicant face accusations under Sections 498A, 377, 323, 504, 506 read with 34 of IPC, registered with Malad Police Station. The applicant is apprehending his arrest in the subject C.R..

2. Learned A.P.P. fairly states that notice under Section 41A was issued to the applicant in the wake of the accusations faced by him and the learned counsel for the applicant makes a statement that he has complied with the said notice and reported to the police station. He also states that in order to ascertain the charge of performing unnatural sex, he was subjected to the medical examination.

3. When specifically asked, for what purpose the custodial interrogation is necessary, learned A.P.P. on instructions of the Investigating Officer, states that it is necessary for recovery of the golden chain and the ring, which according to the complainant, at the time of marriage, were handed over to the applicant and which, she is seeking back.

4. Time and again, the Investigating Officers and the Public Prosecutors are to be reminded that the recovery of cash, gold ornaments or the property of the crime, is not the purpose of investigation and recently, the Hon'ble Supreme Court in the case of *Udho Thakur & Anr. Etc. Vs. The State of Jharkhand & Anr. (Criminal Appeal Nos.1703-1704 of 2022 arising out of S.L.P. (Crl.) No.3242-3243 of 2019 decided on 29/09/2022)*, has clearly frowned upon the High Courts indulging into such an act and directing the parties to pay the amount, as pre-condition for bail.

5. When the complaint is perused, the complainant has made a singular statement that at the time of marriage, her mother had gifted to the applicant one chain and ring, which should be returned back to her. In any case, this is not the purpose for which the Investigating Officer is entitled for the custody of the applicant.

Hence, the following order.

: **ORDER** :

(a) Application is allowed.

(b) In the event of arrest in connection with C.R.No.846 of 2022 registered with Malad Police Station, applicant-Vinay Madhukar Bhoir shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.

(c) The applicant shall report to the concerned police station on 20th and 21st October, 2022 between 3.00 p.m. to 5.00 p.m. and, thereafter, as and when called for.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(SMT. BHARATI DANGRE, J.)