

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.257 OF 2023

Suraj s/o Laxmanrao Dapke

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. S. R. Bagal, Advocate holding for Mr. B. N. Gadegaonkar,
Advocate for the applicant.

Mrs. G. L. Deshpande, APP for the State.

Mr. S. K. Mahapati, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 9th JUNE, 2023.

PER COURT :

1. Applicant is apprehending arrest in connection with Crime No. 040/2023 registered with Kalamnuri Police Station, Tq. Kalamnuri, Dist. Hingoli for the offences punishable under Sections 498A, 313, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. Informant, wife of the applicant, has lodged First Information Report with the police stating that on 28th July, 2021 she was married to the applicant and thereafter they started cohabitation at Latur. It is alleged that after about one and half month of the

marriage, her husband started demanding sum of Rs.10,00,000/- for medical store. It is also alleged that on 10th May, 2022, applicant came in drunken state to the house and he abused and assaulted her. At that time, other relatives also came and they had beaten the informant with fists and kicks. It is also alleged that in the night of 10th May, 2022, applicant took her to her parental home on who wheeler though the informant was carrying seven months pregnancy. It is stated that since 11th May, 2022, she is staying with her parents. On 30th June, 2022, when she was taken to hospital, it was found that there was abortion caused to her.

3. Learned counsel for applicant states that the allegations against the applicant are not specific and there is no averment in the First Information Report for attracting offence punishable under Section 313 of the Indian Penal Code. According to him, no custodial interrogation of the applicant is necessary and hence it is a fit case for grant of anticipatory bail.

4. Learned APP and learned counsel for the informant opposed the said contention. By referring to the certificate of Doctor, it is stated that there is possibility of causing of mis-carriage due to

the stressful condition of the patient during pregnancy. Relying upon the said opinion as well as referring to the allegations in the First Information Report about informant being physically assaulted by the applicant, it is contended that prima facie, offence punishable under Section 313 of the Indian Penal Code is made out. Learned counsel for the informant has drawn attention of the Court to the WhatsApp conversations between informant and applicant which according to him, are the threats given by the applicant to her. On these submissions, application is opposed.

5. As far as allegation with regard to alleged demand of Rs. 10,00,000/- is concerned, no custodial interrogation of the applicant is necessary. At this stage, the Court is required to see as to whether there is any overtact on the part of the applicant which has lead to causing of mis-carriage of the informant. Even if the statement of informant is accepted that since on 10th May, 2022 she was beaten with fist and kick blows, miscarriage has occurred on 30th June, 2022 and the doctor has also not opined that the said mis-carriage is result of any physical assault to the informant. Mere opinion of the medical officer that stress during pregnancy can become a ground for mis-carriage would not be sufficient to attract provisions of Section

313 of the Indian Penal Code. The possibility of mis-carriage for different reasons cannot be ruled out. Suffice it to say that no custodial interrogation of the application is necessary. Imposition of certain conditions on the applicant would meet the purpose of investigating agency.

6. In view of above, application is allowed. Hence, the following order :-

ORDER

(i) Application is allowed.

(ii) In the event of arrest of applicant in connection with Crime No. 040/2023 registered with Kalamnuri Police Station, Tq. Kalamnuri, Dist. Hingoli, for the offences punishable under Sections 498A, 313, 323, 504, 506 read with Section 34 of the Indian Penal Code, he be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one solvent surety in the like amount.

(iii) He shall attend the concerned police station once in a week.

(iv) He shall not contact the witnesses directly or indirectly.

(v) He shall not interfere with the evidence in any manner whatsoever.

(vi) He is further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI)
Judge

dyb

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1071 OF 2023 IN
ANTICIPATORY BAIL APPLICATION NO.257 OF 2023

Komal w/o Suresh Dapke

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. S. K. Mahapati, Advocate for the applicant.

Mrs. G. L. Deshpande, APP for the State.

Mr. S. R. Bagal, Advocate holding for Mr. B. N. Gadegaonkar,
Advocate for respondent No. 2.

CORAM : R. M. JOSHI, J.

DATE : 9th JUNE, 2023.

PER COURT :

Application is allowed.

(R. M. JOSHI)
Judge

dyb