

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1606 OF 2023
IN ABA/359/2023**

Ishan Manojkumar Shah

...Applicant

VERSUS

The State of Maharashtra

...Respondent

...

Advocate for the Applicant : Mr.Ruchir Subodh Wani

APP for Respondent-State : Ms. R.P.Gaur

Advocate for Assist to APP : Mr. K.N.Shermale

...

CORAM : R. G. AVACHAT, J.

DATE : 24.04.2023.

PER COURT :

1. This application has been moved for recall of condition imposed while granting the applicant pre-arrest bail. The condition sought to be recalled is that the applicant shall not leave India without permission of the trial Court.

2. The document dated 17.04.2023 placed on record indicates the applicant to have been serving in Quatar and his employer informed him in writing, that if he failed to resume his duties on tomorrow i.e. on 25.04.2023, his services would stand terminated and he will not be entitled to get any Company

benefits.

3. The learned Advocate for the respondent and the learned APP has strong objections. They submit that the applicant will leave the India and will not return to face the trial. According to them, the Investigating Officer has to examine the genuineness of the document dated 17.04.2023. The learned APP, on the other hand, submits that the applicant be directed to deposit some amount as security with undertaking to attend the concerned Police Station after regular intervals.

4. This is a matrimonial dispute. The offence under Section 498-A of the Indian Penal Code has been registered against the applicant. It is a big question, whether Section 377 of the Indian Penal Code could get invoked in view of amendment to Section 375 of the Indian Penal Code. The issue regarding the marital rape has been referred to a Larger Bench of the Hon'ble Supreme Court.

5. Since the services of the applicant herein are likely to be terminated if he did not resume duty by tomorrow, this Court ignoring all the objections made by the learned APP and the learned Advocate for the informant is inclined to allow the

present application with certain conditions.

6. In view of the above, the application is allowed.

Hence the following order :

ORDER

(i) The condition that the applicant shall not leave India without permission of the trial Court, is hereby withdrawn. The applicant shall appear at the concerned Police Station, once in three months, during next one and half years.

(ii) The applicant shall furnish security in the sum of Rs. 2,00,000/- (Rs. Two Lacs Only).

(iii) The applicant shall not circulate any of the obscene photographs of the victim, if any.

(iv) The breach of any other conditions of the bail order, would entail a forfeiture of the amount being deposited as security to go abroad.

(v) In short, this order be taken as permission to the applicant to leave India.

(R. G. AVACHAT)
JUDGE

mahajansb/