



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 843 OF 2023

Ankit Gajendra Nikam

...Applicant

VERSUS

The State Of Maharashtra

....Respondent

...

Mr. S. S. Kulkarni, Advocate for the Applicant.

Mr. N. B. Patil, APP, for the Respondent – State.

Mr. S. P. Telgote, Advocate for the informant.

...

CORAM : R.M. JOSHI, J

DATE : DECEMBER 08, 2023

PER COURT :

1. Applicant apprehends arrest in connection with with C.R. No. 159 of 2023 registered with Yawal Rural Police Station, Dist. Jalgaon for the offences punishable under Sections 498-A, 323, 504, 506, 507, 377 of the Indian Penal Code.

2. First informant is the wife of the Applicant who alleged that their marriage was performed on 26.12.2021. There is allegation in the FIR that the husband had demanded Rs. 60,000/- for the purchase of watch. She specifically alleges that for that purpose she had paid Rs. 25,000/- by transfer of the said on

phone pe. She further alleges that apart from receiving the fist and kick blows from the Applicant, she was also subjected to the unnatural sex.

3. Learned Counsel for the Applicant submits that in the previous proceedings as well as in the previous communications it was never alleged by the wife she being subjected to unnatural sexual intercourse. It is his contention that in order to falsely implicate the Applicant in this crime these allegations are made. It is his contention that there is no substance in the allegation of asking Rs. 60,000/- from wife as the watch was already purchased by the Applicant in January, 2022. It is submitted that since there is discord in the matrimonial ties the allegations are made.

4. Learned Counsel for the informant opposed the application by referring to the FIR wherein according to him specific allegations are made against Applicant of demanding money, receiving part money as well as subjecting the informant with unnatural sexual intercourse. In order to substantiate his contention he sought to place reliance on the photocopies of the

phone pe transaction. He also placed reliance on the medical papers of Savanerkar Hospital.

5. Learned APP also opposed the application by submitting that though there is no medical examination of the informant but had given history of unnatural sexual intercourse being committed with her by the Applicant.

6. There is no dispute about the fact that there is matrimonial discord between informant and Applicant. There is further no dispute about the fact that the informant had initiated proceedings under the Domestic Violence Act. Most importantly the wife has filed application under Section 9 of the Hindu Marriage Act for restitution of conjugal rights. This court finds it absolutely shocking that wife who alleged unnatural sex being committed with her against her will, would file restitution application. This fact coupled with the fact that in the previous communication or proceedings no such allegation is made, there is reason to believe that merely because offence under Section 376 of IPC is not attributable to the husband, the allegations of offence under Section 377 of IPC is leveled. Apart from this, the document placed on record

i.e., account statement of the informant shows that a sum of Rs. 25,000/- was never paid by her to the Applicant. All these facts shows that this could be a case of false implication of the Applicant.

7. In view of above, application stands allowed by confirming order dated 07th June, 2023.

(R. M. JOSHI, J.)

Malani