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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.964 OF 2023

Rakesh Jeevan Sakpal

...Applicant

vs.

State of Maharashtra

...Respondent

Mr. Pramod Pandey for the Applicant.

Mr. H. J. Dedhia APP for the Respondent-State.

Mr. Haribhau Bhosle, PSI, Navghar police station present.

CORAM : S. M. MODAK, J.

DATED : 8TH JUNE 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP for the Respondent-State.

2. On the complaint lodged by the wife, present Applicant being husband and the mother-in-law of the first informant are made accused persons in FIR bearing No.129 of 2023, registered with Navghar police station under sections 498-A, 323, 377, 406, 504 read with 34 of IPC.

3. My attention is invited to cryptic order passed by learned Additional Sessions Judge, Thane on 23/03/2023. It is on page 43. It only says that the offence is serious. There is no discussion in the order about the allegation. It is true that this Court is not sitting while exercising the Appellate jurisdiction.

4. The allegation is that the first informant wife came to know about extra marital affair of the present Applicant with a girl Varsha Khusalkar. She had seen photos in the mobile of husband, in which the husband and said girl were shown in a compromising position. She has realised that the husband is already in love with the said lady and on that count she was harassed. Even when she informed this fact to her in-laws, they have not paid any heed.

5. The first informant was harassed and she was asked to have sexual intercourse in unnatural way. She left the house on 11th November 2022 and then FIR came to be lodged on 16th February 2023, with further allegation that ornaments which are “Stridhan” articles are lying with the husband.

6. Learned Advocate invited my attention to the complaint filed by the first informant on 1st December 2022, with the Maharashtra State Women Commission. The contention is that there is neither

reference of unnatural sex nor there is reference of Stridhan articles.
He has also replied on 6th February 2023. It is on page 21. It nowhere says that the ornaments are taken over by the first informant. For the first time, the allegation of unnatural sex and Stridhan article was made. In the notice sent by the first informant through Advocate, dated 25th February 2023, addressed to Senior Inspector of Police, Bhayandar police station, for the first time said allegation is made. It is at page 23.

7. During arguments, learned APP has shown this Court the papers, which consist of photograph in which the Applicant and said girl is shown in a compromising position. Her statement is also recorded. It is submitted that the first informant has refused to appear for medical examination. It is true that in the FIR she has not mentioned the manner in which the offence under section 377 of IPC was committed and the allegations are general in nature.

8. Learned Advocate for the Applicant after taking instructions, submitted that even though ornaments are taken over by the first informant his client is ready to deposit the amount of Rs.2,05,000/- which is valuation of those ornaments. Even if, custodial interrogation is granted there are hardly any chances of recovery of

those ornaments. So let this undertaking given to this Court be accepted and the Applicant can be granted anticipatory bail.

9. Copy of this order be send to Court of Additional Session Judge, Thane. Ultimately learned Judge presiding over a particular Court is expected to take decision on the basis of submissions made before him and after going through the papers. If any submission about willingness to deposit the amount towards misappropriated stridhan is not made, learned Judged seized of the matter is not expected to give his observations (either to accept or to reject) on the submission.

10. It is different issue. But still he is not expected to pass crytic order. Reasoning is the soul of the judgement. Cryptic order may be passed due to various reasons. But Judge seized of any matter must give reasons for arriving at particular decision. Hence, the following order is passed :

O R D E R

(a) In the event of arrest, in connection with C.R. No.129 of 2023, registered with Navghar police station for the offences punishable under sections 498-A, 323, 377, 406, 504 read with

34 of IPC, the Applicant-Rakesh Jeevan Sakpal be released on bail on furnishing personal bond and surety bond of Rs.25,000/-.

- (b) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
- (c) The Applicant shall give attendance to the Navghar police station on every first Monday of every month from 10 am to 12 noon until filing of the charge-sheet.
- (d) This order is passed subject to condition that the Applicant will deposit Rs.2,05,000/- with the Court of Additional Sessions Judge, Thane, within two weeks from today.
- (e) The learned Additional Sessions Judge, Thane is at liberty to take appropriate decision after filing of chargesheet about this amount after hearing the first informant and the Applicant. If there is an occasion, decision cant be taken even earlier to completion of trial.
- (f) Needless to say, violating of the condition above will make the Applicant liable for cancellation of anticipatory bail, after notice to the Applicant.

11. Application is disposed of accordingly.
12. These are my prima facie observations and the trial Court may not be influenced by that.
13. All the parties to act on an authenticated copy of this order.
14. Copy of this Order be send to the learned Additional Session Judge, Thane for information purpose.

[S. M. MODAK, J.]