

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

ANTICIPATORY BAIL APPLICATION NO.1046 OF 2023

Mohd. Danish Mohd Imran @ Danish
Alfaaz @ Danish Mirza ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Shreyansh Mithare, with Ms Priya Gupta and Ms Anjali Nimbalkar
for the Applicant.

Ms Shailesh Kharat with Mr. Siraj Ghiwala, Wasim M. Shaikh for the
Intervenor.

Mr. R.M. Pethe, APP for Respondent-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 11th APRIL, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.242 of 2023 registered with Oshiwara Police Station, Mumbai, for the offences punishable under Sections 376(2)(n), 377, 406 and 498-A r/w 34 of the IPC.

2. Heard Mr. Mithare, learned counsel for the Applicant, Mr. Kharat, learned counsel for the Intervenor and Mr. R.M. Pethe, learned APP for the Respondent -State. I have perused the records and

considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by the victim. The facts narrated in the FIR prima facie indicates that the victim and the Applicant were acquainted since the year 2017. She claims that in the year 2017 she had given to the Applicant an amount of Rs.50,000/-. She fell in love with the Applicant and married him in the year 2018.

4. The FIR prima facie reveals that the Applicant was having relationship with other girls even prior to the marriage and that he continued such relations even after the marriage. The First Informant claims that the Applicant and his family members used to constantly quarrel with her and used to compel her to terminate her pregnancy, constantly demand money from her etc. She states that in the year 2018 he got her signature on divorce papers and sent her out of matrimonial home. She claims that thereafter the Applicant married another girl. She states that on 19/20th December, 2022 the Applicant called her home and told her that they could resume matrimonial ties. She did not respond to his proposal. Thereafter on 21/12/2022 at

about 10.30 p.m. he called her to White Lama, Lokhandwala. She claims that he had sexual intercourse with her in a vehicle against her wish and without her consent. She claims that the Applicant owes to her total amount of Rs.40,00,000/-.

5. The victim had earlier lodged a complaint on 03/09/2022 wherein she had not made any allegations of sexual abuse, but had claimed that the Applicant owed to her an amount of Rs.50 to 60 lakhs. Learned counsel for the Applicant states that no crime was registered pursuant to the said complaint, in view of which the victim has lodged a fresh FIR, in which she made allegations of sexual abuse.

6. The FIR itself reveals that the Applicant had remarried after divorce. She had also filed a complaint against him for cheating. In such circumstances, the statement of the victim that the Applicant had called her with an assurance that they would sort out difference and resume their matrimonial ties, prima facie appear to be doubtful.

7. Considering the nature of accusations, in my considered view this case would not justify custodial interrogation. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R.

No.242 of 2023 registered with Oshiwara Police Station, Mumbai, the Applicant shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;

(ii) The Applicant shall report to the concerned Investigating Officer for a period of two days from 14/04/2023 between 11.00 a.m. to 2.00 p.m. and thereafter as and when required by the Investigating Officer;

(iii) The Applicant shall not interfere with the Complainant and or witnesses in any manner;

(iv) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

8. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)