



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

ANTICIPATORY BAIL APPLICATION NO. 1346 OF 2023

Kiran Rajaram Dhavade ...Applicant

Versus

The State of Maharashtra and anr. ...Respondents

Mr. Anandmaya Dhorde, i/b Nitin Gaware Patil, for the
Applicant.

Mr. M. G. Patil, APP for the State/Respondent.

Mr. Kartik Garg, for Respondent No.2.

PSI Amol Ghodke, Lonikalbhor Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED: 18th OCTOBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.631 of 2022, registered with Loni Kalbhor Police Station, Pune, for the offences punishable under Sections 498-A, 377, 313, 323, 504 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3. When the application was listed before the Court on 1st May, 2023, this Court was persuaded to grant interim protection.

4. The first informant, who is the wife of the applicant, lodged report against the applicant and his relatives with the allegation that she was subjected to matrimonial cruelty. It was, *inter alia*, alleged that the applicant had subjected the first informant to sexual exploitation against the order of nature. The applicant had assaulted the first informant which resulted in miscarriage.

5. On the previous date, when the matter was listed before the Court, a submission was made that the applicant had caused miscarriage without the consent of the first informant.

6. Today, the learned APP tenders a copy of the medical record at Marathe Hospital. It, *inter alia*, revealed that on 20th July, 2021, the operation was carried out with the consent of the first informant. The consent form seems to have been signed by the first informant as well as the applicant. The learned Counsel for the first informant – respondent No.2 submitted that the first informant was coerced to give her consent. *Prima facie*, the said submission appears against the weight of the material on record.

7. Apart from the aforesaid allegation of causing miscarriage without the consent of the first informant, rest of

the allegations in the FIR are in the nature of manifestation of matrimonial discord between the first informant and the applicant. Even if the allegations in the FIR are taken at par, the custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation. Even otherwise, the investigation has reached an advanced stage.

8. I am, therefore, inclined to exercise the discretion in favour of the applicant.

9. Hence, the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.631 of 2022, registered with Loni Kalbhor Police Station, Pune, the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.
- (ii) The applicant shall cooperate with the investigation and attend Loni Kalbhor Police Station on 30th and 31st October, 2023 in between 10.00 am. to 1.00 pm. and thereafter as and when directed.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first

informant or her relatives or any of the persons acquainted with the facts of the case.

- (iv) The applicant shall regularly appear before the jurisdictional Court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]