

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO. 1522 OF 2023

Rahul Dattu Sanap ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Rohit D. Gorade a/w Mr. Ashwin Pimple, for the Applicant.

Mr. Tushar Sonawane a/w Ms. Pooja Satpute for Intervener-Respondent No.2.

Mrs. Veera Shinde, APP for the State-Respondent No.1.

CORAM : AMIT BORKAR, J.

DATED : JUNE 21, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.I-103 of 2023 registered with Sarkarwada police station, Nashik for the offence punishable under Sections 193, 419, 420, 468, 471 r/w 34 of the Indian Penal Code (for short 'IPC'). The applicant is seeking relief under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.).

2. According to the prosecution, matrimonial dispute between the informant and the applicant by way of Petition No.420 of 20196 was pending before the Family Court. The informant had engaged Advocate Ms. Poonam Shinkar to represent her. Advocate Mr. Subhash Wadje represented the applicant. In the month of June, 2022, the informant's Advocate realized that the marriage

Petition has been disposed of. On receiving the certified copies of the proceedings, according to the informant, it was revealed that the applicant impersonating the informant as a party settled the marriage proceedings by filling a pursis for withdrawal of proceedings. According to the informant no notice Lok-Adalat was received by her. Therefore, the applicant committed an offence alleged in the report.

3. The applicant filed application under Section 438 of Cr.P.C. which is rejected by order dated 15 May 2023.

4. Learned Advocate for the applicant submitted that he has been falsely implicated. There is delay in filing report. The informant had in fact withdrawn the complaint.

5. Per contra, learned Advocate for the informant submitted that the informant had never received amount of Rs.6,50,000/- which was shown consideration for withdrawal of proceedings. The Advocate Ms. Poonam Shinkar had filed affidavit stating that she never appeared before the Court for withdrawal of proceedings. Therefore, at this stage, it is clear that the applicant portraying some one as the informant, withdrawal the proceedings. According to her, the applicant had fixed his second marriage on 15 May 2023 hence, the proceeding was shown to be withdrawn on 7 May 2022.

6. I have perused the case papers and the material on record, I called upon the Advocate for the applicant to take instructions about transfer amount of Rs.6,50,000/- by way of demand draft. However, Advocate for the applicant despite instructions of the

instructing Advocate, is unable to take instructions from victim about receipt of amount of Rs.6,50,000/-. Prima facie, the Advocate who represented the informant in marriage petition has filed affidavit stating that she never filed pursis for withdrawal of proceedings recorded in order dated 7 May 2022. Therefore, in my opinion custodial interrogation of the applicant is necessary to ascertain events which led to filing of pursis and withdrawal of proceedings. Hence, there is no merit, the anticipatory bail application is, therefore, rejected.

7. Considering gravity and nature of offence request of continuation of ad-interim relief, is rejected.

(AMIT BORKAR, J.)