

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

ANTICIPATORY BAIL APPLICATION NO. 2059 OF 2023

Jyoti Kaur Hoshiyar Singh Labana ...Applicant

vs.

State of Maharashtra and Anr. ...Respondents

Mr.Toni S. Sachdevani – Advocate for Applicant.
Mr.S.R.Agarkar – APP for Respondent No.1 – State.
Mr.S.G.Gaikwad – PSI – Ulhasnagar Police Station.

CORAM : S. M. MODAK, J.

DATED : 10TH AUGUST 2023

P. C. :

1. Heard learned Advocate for the Applicant and learned APP.
2. The FIR is registered against in all 4 persons. Pooja Kaur is the sister-in-law of the First-Informant. Whereas, Accused Ajaysingh Labana is the husband and Accused Kalisingh and Jyoti Kaur are the in laws of the First-Informant. The First-Informant Roshani Labana cohabitated with the husband and in-laws from 11th February, 2018 to 23rd April, 2022. On 23rd April, 2022, due to harassment, she left the house and lodged the complaint with Ulhasnagar Police Station on 28th April, 2022. There are allegations of harassment and sexually

abusing her by the father-in-law. The allegation against the present Applicant is that she used to insist on the First-Informant to have an intercourse with the father-in-law.

3. Charge-sheet is filed against the arrested Accused and the father-in-law is granted a bail by this Court as per the order dated 21st April, 2023. Whereas, the sister-in-law and the husband are granted an anticipatory bail by the Court of Additional Sessions Judge–Kalyan. From the charge-sheet papers, number of contentions are raised on behalf of the mother-in-law. They are as follows :-

- (a) There is inconsistency in between the averments in the FIR on one hand and averments in the statement recorded under Section 164 of the Code of Criminal Procedure, 1973 [“Cr.P.C.”].
- (b) There is proceeding initiated by the First-Informant under the provisions of Domestic Violence Act. It is taken on record and marked as Annexure-X. There are variances in between the facts pleaded therein in one hand and the averments in the FIR on the other hand.
- (c) Sometime the First-Informant has said that daily her father-in-law used to ravish her. Whereas, during history given to the doctors, she has said that every alternate day, she was being ravished.
- (d) So far as theory of abortion is concerned, there is also inconsistent version which is considered by this Court while dealing with Bail Application on 21st

April, 2023.

4. Learned APP submitted that there are statements of the relatives of the victim supporting her grievance and she has lodged the complaint immediately after leaving the matrimonial house. His submission is that why the First-Informant should be disbelieved.

5. I have read the allegations in the FIR. No doubt, it is true that the allegations are serious. It cannot be expected from the mother-in-law to insist on daughter-in-law to have a sexual intercourse with the father-in-law. Ultimately, the issue is considering these allegations, whether the custodial interrogation of the Applicant is required. The incident first took place in the month of December-2019 and it continued till 23rd April, 2022. For all this period, the First-Informant cohabitated in the matrimonial house. It is not her case that during that stay, she has narrated this incident to anyone. Considering inherent deficiencies in the Prosecution case, the contention is that theory is highly unbelievable. This is not a stage to decide whether there are inconsistencies as submitted above. However, I am inclined to grant an anticipatory bail for the reason that custodial interrogation is not required. Also for the reason that this Applicant is a lady ; also for the reason that the FIR is lodged on

28th April, 2022 even though the first incident took place in the month of December-2019. For all this period, she continued her residence at the matrimonial house. Hence, order :-

O R D E R

- (i) In case of an arrest in connection with C.R. No. 196 of 2022 registered with Ulhasnagar Police Station – Thane City for the offences punishable under Sections 376(2)(f), 498-A, 323, 114, 504, 506 read with 34 of IPC, the Applicant – Jyoti Kaur Hoshiyar Singh Labana be released on furnishing personal bond and surety bond of Rs.25,000/-.
 - (ii) She is directed to give attendance to Ulhasnagar Police Station – Thane City on 17th, 24th and 31st August, 2023 from 10.00 to 12.00 noon and thereafter, as and when called.
 - (iii) Applicant not to threaten the Prosecution witnesses or to allure them in any manner.
 - (iv) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.
6. These are my *prima facie* observations. Let the learned trial Court need not be influenced by them.
7. Application is disposed of in the aforesaid terms.
8. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]