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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2084 OF 2023

Ashraf Abdulhamid Shaikh

...Applicant

vs.

State of Maharashtra

...Respondent

....

Mr. A. M. Saraogi i/b. Bimlesh Jha for the Applicant.

Mr. S. V. Gavand, APP for the Respondent-State.

....

**CORAM : ANUJA PRABHUDESSAI, J.**

**DATE : 31 JULY 2023**

**P.C. :**

1. The Applicant apprehends his arrest in Crime No.523 of 2023 registered at Dharavi police station, Brihanmumbai, for the offence punishable under sections 376, 417, 506(2) of the Indian Penal Code, 1860.

2. Heard Mr. A. M. Saraogi, learned counsel for the Applicant and Mr. S. V. Gavand, 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 prosecutrix. The facts narrated in the FIR reveal that the prosecutrix was married in the year 2006. She claims that the Applicant herein was her husband's friend who visited her house in the year 2008. Her husband saw the prosecutrix and the Applicant in compromising position and gave her Talaq. She claims that thereafter she started living with Applicant and that they have three children born in the years 2011, 2013 and 2015. The prosecutrix claims that subsequently she learnt that the Applicant is a married man. She has lodged FIR essentially on the ground that he is not giving her money for household expenditure and that he visits her house despite telling him not to visit the house. He comes to her house and harasses her.

4. The FIR *prima facie* indicates that the relationship between the Applicant and the prosecutrix, both adults, was consensual and hence *prima facie* the offence of rape within the meaning of section 375 of the Indian Penal Code, 1860 is not made out.

5. Considering the nature of accusation, this is a fit case for grant of pre-arrest bail and hence the following order;

(i) In the event of arrest of the Applicant in Crime No. 523 of 2023 registered with Dharavi police station, BrihanMumbai, he is ordered to be released on bail on executing 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 Investigating Officer for two days i.e. on 4 August, 2023 and 5 August 2023 between 11.00 am to 2.00 pm, and further as and when required by the Investigating Officer for the purpose of investigation;

(iii) The Applicant shall not tamper with the prosecution evidence and or influence the 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.

6. The Application stands disposed of.

**(ANUJA PRABHUDESSAI, J.)**