



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2375 OF 2023**

Prakriti Somen Roy
versus
State of Maharashtra

... Applicant
... Respondent

Mr. Mihir Desai, Sr. Advocate with Mr. Robert D Rozario, Mr. Mahaling M. Pandarge, Mr. Saurav Mittra, for Applicant.
Mr. R.M.Pethe, APP for State.
Mr. Udayan Jain, for Intervener.

CORAM: N.J.JAMADAR, J.

DATE : 14 SEPTEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.266 of 2023 registered with R.A.Kidwai Marg Police Station for the offences punishable under Sections 120-B, 307, 379, 328, 420, 406, 504 and 506(II) of Indian Penal Code and Section 3 the Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 (the Black Magic Act, 2013).
3. The first informant is the husband of the applicant. Their marriage was solemnized on 30 November 1989. Out of the said wedlock, they have two grown up daughters and a son. The first informant lodged a report with the allegations that during the period 2018-20, the applicant, his mother in law – Josna, who passed away,

brother in law – Subra and sister in law Papiya, hatched a criminal conspiracy and in pursuance of the said criminal conspiracy obtained obnoxious substance from a fake godman (dhongi baba) and the applicant administered the said substance to the first informant with an intent to kill the first informant or render him mentally unstable, and, therefore, the first informant had been persistently unwell despite medical treatment. When the first informant confronted the applicant, he was abused, insulted and threatened out of his life. The first informant further alleged that the applicant removed gold ornaments and precious articles from the locker which they had jointly maintained in Canara Bank, Nagaon Branch.

4. Mr. Mihir Desai, learned Senior Advocate for the applicant submitted that on account of matrimonial disputes, the applicant and her relatives have been falsely roped in as a counter blast to the complaint lodged and proceedings initiated under the Protection of Women from Domestic Violence Act by the applicant. In fact, the first informant subjected the applicant to domestic violence and matrimonial cruelty. The offences punishable under Section 307 of IPC and Section 3 of the Black Magic Act, 2013 are not prima facie made out. Hence, the applicant deserves exercise of discretion in her favour.

5. The learned APP and the learned Counsel for the first informant-intervener resisted the prayer of pre-arrest bail.

6. From the perusal of the allegations in the FIR, it becomes evident that

the applicant and the first informant have been in the marital bond since decades and they have grown up children. In fact, in the FIR itself, the first alleges that their marital life has been afflicted with discord since 15-20 years. As regards the allegations of administering obnoxious substance, it is pertinent to note that the first informant claimed to have learnt about the alleged conspiracy to administer obnoxious substance from the sister in law of the applicant in the year 2018. It is further alleged that he had the transcript of the conversation amongst the accused inter se. However, the FIR came to be registered in the year 2023.

7. The learned Counsel for the first informant endeavoured to urge that the medical certificates of the first informant indicate the ailments which the first informant had been suffering from despite continuous treatment. In fact, there is no explanation regarding the allegations of administering obnoxious substance, as noted by the learned Additional Sessions Judge.

8. I am afraid, this cannot be the approach in considering the entitlement to pre-arrest bail. Prima facie, the delay in lodging the report coupled with the long-standing marital discord, which is the genesis of the allegations, ought to weigh with the Court in considering the entitlement to pre-arrest bail.

9. Moreover, it could not be controverted that the mandate to operate the bank account was 'either or survivor'. In such circumstances, prima facie, the allegations of theft become sustainable.

10. At any rate, the allegations in the FIR are not such that the custodial interrogation of the applicant is warranted. I am, therefore, impelled to exercise the discretion in favour of the Applicant.

11. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Prakriti Somen Roy in connection with C.R.No.266 of 2023 registered with R.A.Kidwai Marg Police Station, 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 co-operate with the investigation and report to R.A.Kidwai Marg Police Station on every alternate Tuesday from 10.00 a.m. to 1.00 a.m. for a period of one month.

(iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses and the persons acquainted with the facts of the case.

(iv) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail only.

(v) The Application stands disposed.

(N.J.JAMADAR, J.)