

Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
ANTICIPATORY BAIL APPLICATION NO. 2594 OF 2023**

Kishor Kumar Kailash Ojha ...Applicant

**Vs.**

The State of Maharashtra ...Respondent

Mr. Divya R. Gupta i/b Ms. Sunita Varma, for Applicant.

Mr. Shrikant Yada, APP for State.

**CORAM:- N. J. JAMADAR, J.**

**DATED:- 27<sup>th</sup> SEPTEMBER, 2023**

**PC:-**

- 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 C.R. No. 176 of 2023, registered with Bhivandi City Police Station, Thane, for the offences punishable under Sections 498-A, 323 and 504 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
- 3) The marriage of the first informant was solemnised with the applicant in the year 2017. After six months of marriage, the first

informant allegedly learnt that the applicant was already married and his first wife was not residing with him. The applicant and the first informant were blessed with a son. The son had been suffering from heart ailment. The applicant and his relatives allegedly subjected the first informant to harassment in order to coerce her to bring money to meet the expenses of treatment of her son. In the month of June, 2021, the applicant allegedly ill-treated and beat the first informant and dropped her at her parental home. Hence, the first informant lodged the report against the applicant and his relatives.

4) The learned Additional Sessions Judge was persuaded to exercise the discretion in favour of the accused Nos. 2 to 5. However, the application of the applicant came to be rejected.

5) The learned Counsel for the applicant submitted that the allegations of harassment in order to coerce the first informant to bring money from her parents are apparently false as the applicant had purchased a flat in the name of the first informant. Matrimonial disputes arose as the first informant insisted that the applicant should stay separately in Mumbai.

6) The learned APP submitted that the allegations in the FIR indicate that the factum of the first marriage was suppressed.

7) I have perused the allegations in the FIR. The allegations are essentially of subjecting the first informant to matrimonial cruelty. The reason ascribed for the alleged unlawful demand was to meet the expenses of treatment of the son of the applicant. Even otherwise, the custodial interrogation of the applicant does not seem warranted for effective investigation. Moreover, there appears to be significant delay in lodging the report as the first informant was allegedly dropped at her parental home in the month of June, 2021 and FIR came to be lodged on 1st April, 2023.

8) In the aforesaid view of the matter, I am inclined to exercise the discretion in favour of the applicant.

9) Hence, the following order:-

**ORDER**

I) In the event of arrest of the applicant in connection with C.R. No. 176 of 2023, registered with Bhivandi City Police Station, Thane, for the offences punishable under Sections 498-A, 323 and 504 read with Section 34 of Indian Penal Code, 1860, the applicant be released on bail on executing 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 attend Bhivandi City Police Station, Thane, on every Saturday in between 10.00 am to 1.00 pm for a period of one month or till filing charge-sheet, whichever is earlier.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of 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.]