

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

ANTICIPATORY BAIL APPLICATION NO. 3491 OF 2022

Vijay Pratap Singh	 Applicant
v/s.	
The State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO. 4389 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO. 3491 OF 2022**

Rajni Kailashi Singh	... Intervenor
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In the matter between :-

Vijay Pratap Singh	 Applicant
v/s.	
The State of Maharashtra and anr.	 Respondents

Mr. Sunil R. Pandey i/b. Mr. Sudhir Bhardwaj for the Applicant.
Mr. R.M. Pethe, APP for the State.
Ms. Meena Mishra i/b. Law Global for the Intervenor.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 06th MARCH, 2023.

P. C. :-

. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicant apprehending his arrest in C.R.No.466/2022 registered with D.B. Marg Police Station, Mumbai for offences punishable under sections 406, 324, 323, 504, 506, 403 of the Indian Penal Code.

2. Heard learned counsel for the Applicant, learned APP for the State and learned counsel for the Intervenor. 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 Intervenor (hereinafter referred to as 'the Complainant'). The FIR reveals that the Complainant married in the year 2008. There was some matrimonial dispute between her and her husband and she was living separately. She claims that she met the Applicant in the year 2015 and she took his assistance in recovering Rs.1.5 crores which was payable by her husband. She further states that she was in live in relationship with the Applicant. In the year 2018, they purchased two galas (shops). She contends that later she learnt that the Applicant was friendly with another girl and that there used to be constant quarrels between her and the Applicant over the said issue. She further states that the Applicant had physical relationship with her under the promise that he would marry her. She further claims that at the instance of the Applicant, she had terminated her pregnancy thrice. She further states that in 2018-19, the Applicant assaulted her when she

questioned him about his love affair with the other girl. She further states that she was under treatment for depression till June, 2021. In January, 2022, she and the Applicant started business of wine shop in one of the galas and opened a joint account. She claims that the Applicant used to take money from the said account and that he has not given her any money. She has further stated that on 06/06/2022, the Applicant took away all the documents and thereafter, he started avoiding her and refused to live with her.

4. The gist of the complaint is that since last 07 years, the Applicant was in live in relationship with the Complainant, that he had physical relationship with her under the promise of marriage, that he compelled her to terminate the pregnancy and further he had relationship with the other girls though he was living with her. She has further stated that the Applicant has subjected her to physical and mental cruelty and that he has been using her credit card and that he has not returned the chain, ring, etc. which she had given to him and further that he has taken the original documents of the wine shop.

5. The records reveal that the marriage between the Complainant and her husband was dissolved on 04/08/2021. The FIR itself reveals

that the Complainant was in live in relationship with the Applicant during the subsistence of the first marriage. The Complainant could not be under misconception that the Applicant would marry her. Hence, the consent for sexual relationship cannot be said to have been given under misconception of fact. The records prima facie reveal that the Applicant and the Complainant, both adults, had indulged in consensual relationship.

6. Learned counsel for the Complainant concedes that the offence under section 406 is not prima facie made out. She claims that the material on record prima facie reveals that the Applicant had assaulted the Complainant with a bottle and caused grievous injuries. The alleged incident, as per the FIR, had occurred about 07 years prior to lodging of the FIR. The records also reveals that the brother and sister of the Complainant had made similar allegations against the Applicant and that he has already been released on bail.

7. Considering the aforesaid facts and circumstances, prima facie, no case is made out to justify custodial interrogation. Under the circumstances, the Applicant cannot be declined pre-arrest bail solely on the basis of criminal antecedents. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.466/2022 registered with D.B. Marg Police Station, Mumbai, he shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one or two sureties in the like amount ;

(b) The Applicant shall report to the Investigating Officer as and when required by the Investigating Officer ;

(c) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(d) 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.

8. The Application stands disposed of. Interim Application stands disposed of in view of disposal of ABA.

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(SMT. ANUJA PRABHUDESSAI, J.)