

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

ANTICIPATORY BAIL APPLICATION NO.3576 OF 2022

Najir Husen Sayyad

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

...

Mr. Ashok Tajane for the Applicant.

Mr. Shrikant Yadav, APP for Respondent No.1-State.

Ms Sonali Chavan for Respondent No.2.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 5th APRIL, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.PC. filed by the aforesaid Applicant apprehending his arrest in C.R. No.836 of 2022 which was initially registered with Solapur (rural) Police Station for the offences punishable under Sections 323, 377, 494, 498A and 504 r/w. 34 of the IPC and thereafter transferred to Faujdar Chavadi Police Station, Solapur and re-numbered as C.R. No.619 of 2022.

2. Heard Mr. Ashok Tajane, learned counsel for the Applicant Ms Sonali Chavan, learned counsel for Respondent No.2 and Mr. Shrikant Yadav, learned 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 wife of the Applicant herein. Marriage of the Applicant and the first informant was solemnised on 27/05/2011. They have two children from the said wedlock. The first informant has alleged that the Applicant herein had subjected her to unnatural sex since the time of marriage. She claims that the Applicant and his family members have also subjected her to physical and mental cruelty.

4. The FIR is lodged after more than 10 years from the alleged incident. The records prima facie indicate that the proceedings are arising mainly from matrimonial dispute. Considering the nature of accusations, this Court had granted interim bail on 23/12/2022. Learned APP, under telephonic instructions from the Investigating Officer states that the investigation is almost completed and charge-sheet will be filed within one week.

5. Considering the above facts and particularly the delay in lodging the FIR, in my considered view this would be a fit case to exercise discretion under Section 438 of the Cr.PC. in favour of the Applicant. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R. No.619 of 2022 registered with Faujdar Chavadi Police Station, Solapur (old C.R. No.836 of 2022 which was initially registered with Solapur (rural), the Applicant shall be released on bail on furnishing 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 as and when required 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.

(SMT. ANUJA PRABHUDESSAI, J.)