

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3405 OF 2023

Jalpesh Vyas ...Applicant

vs.

The State of Maharashtra and Ors. ...Respondents

Mr. Anand Pande a/w. Ms. Pooja Pandey, for the Applicant

Mr. S.H. Yadav, APP, for the Respondent/State.

Mr. Pravin Bhosale, API, Mira Road police station.

CORAM : N. J. JAMADAR, J.

DATE : DECEMBER 7, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

1. This application is preferred seeking pre-arrest bail in connection with C.R. No. 205 of 2021 registered at Mira Road police station for the offences punishable under sections 498-A, 323, 504 read with 34 of Indian penal Code, 1860.

2. Marriage of the first informant and the applicant was solemnized on 30th January, 2015. The applicant shifted to Poland in the year 2017. The applicant allegedly did not take the first informant to Poland despite promise and demanded dowry of Rs. 50 lakhs, if the first informant desired to join the applicant. Alleging that the applicant and his relatives subjected her to physical and mental cruelty, the first informant lodged the report.

3. The learned counsel for the applicant submitted that the applicant has instituted a petition for divorce. The relatives of the applicant have been granted pre-arrest bail. The learned Sessions Judge declined to exercise the discretion in favour of the applicant primarily on the ground that the applicant has instituted proceeding for divorce and desired to break the marital bond.

4. I have perused the allegations in the first information report. It appears that the genesis of the alleged offences is in the marital discord. On account of marital discord, the things have come to such a pass that the applicant has filed petition for divorce. Institution of petition for divorce, by itself, can not be a ground to reject prayer for pre arrest bail, if the applicant has otherwise made out a prima facie case.

5. In the backdrop of the nature of the allegations, the custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation.

6. For the foregoing reasons, I am impelled to exercise the discretion in favour of the applicant.

7. In the event of arrest in C.R. No.205 of 2021 registered with Mira Road police station, the applicant be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

8. The applicant shall cooperate with the investigation and attend Mira Road police station, on 14th and 15th December 2023 in between 10 am to 1 pm and, thereafter, as and when directed.
9. The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.
10. The applicant shall regularly attend the proceedings before the jurisdictional Court.
11. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.
12. The learned Additional Session Judge while rejecting the application has imposed a condition that till completion of the trial arising out of C.R. No. 205 of 2021 the applicant shall not leave India.
13. As the learned Additional Session Judge has rejected the application for pre-arrest bail, such condition could not have been lawfully imposed. Hence, the said condition stands set aside.
14. The applicant shall, however, obtain the permission of the jurisdictional Court before leaving India.

Application disposed.

(N. J. JAMADAR, J.)