

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

ANTICIPATORY BAIL APPLICATION NO. 3547 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Sanjay Karbhari Shinde ...Applicant

Versu

State of Maharashtra and anr. ...Respondents

Mr. Satyavrat Joshi, i/b Ashish Vernekar, for the Applicant.

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

Mr. Ravindra Pachundkar, for the Ori. Complainant.

API Nilesh Ghorpade, Chandannagar Police Station, Pune
City, present.

CORAM: N. J. JAMADAR, J.

DATED: 19th DECEMBER, 2023

ORDER:-

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 CR No.493 of 2023, registered with Chandannagar Police Station, Pune City, for the offences punishable under Sections 307, 498-A, 323, 504 and 506 of the Indian Penal Code, 1860 ("the Penal Code"), Sections 25 and 4 of the Arms Act, 1959, Sections 3 and 4 of the Dowry Prohibition Act, 1961 and Sections 37(1), 37(3) and 135 of the Maharashtra Police Act, 1951.

3. The informant is the wife of the applicant. Prior to marriage, they were in a relationship. On account of the opposition of the parents they had eloped and solemnized marriage on 9th August, 2023.

4. The first informant alleged, after a couple of weeks of the marriage, the applicant started to harass the first informant in order to coerce her to bring an amount of Rs.30,00,000/- from her parents, as they were not required to spend anything in her marriage. The applicant also made her pursuit of further education dependent on bringing money from her parents. Allegedly, the applicant had recorded the objectionable photos and videos of the first informant and threatened to make those photos and videos viral if she did not bring the money. The applicant was given in to the vice of consuming liquor. The first informant alleged, the applicant subjected her to physical harassment and assaulted her on a number of occasions.

5. On 21st October, 2023, the applicant, suspecting the fidelity of the first informant, disrobed her and divested her of the ornaments and assaulted her by means of scythe and iron pestle. The first informant called her father at about 4.30 am. The father of the first informant came to her house,

accompanied by police. The applicant had allegedly abused and assaulted the father of the first informant as well.

6. Mr. Joshi, the learned Counsel for the applicant, submitted that the parents of the first informant were against the relationship between the applicant and the first informant and the first informant had addressed communication referring to the threats given by her parents and had also sworn an affidavit to the effect that she solemnized marriage on her own volition. In the affidavit, the first informant had also adverted to the possibility of foisting false cases against the applicant and her family members. The FIR in question, according to Mr. Joshi, has been lodged at the behest of the parents of the first informant.

7. The learned APP, however, stoutly resisted the prayer for pre-arrest bail. It was submitted that within weeks of marriage the applicant started to illtreat the first informant in order to coerce her to meet unlawful demand of money. The first informant has given a vivid account of the physical and mental cruelty she was subjected to. The learned APP submitted that the multiple injuries, which were found on the person of the first informant when the police party had

gone to her rescue, rule out the possibility of false implication.

8. Mr. Joshi fairly submitted that there are indeed injuries on the person of the first informant. However, at this stage, according to Mr. Joshi, the custodial interrogation of the applicant is not warranted to facilitate further investigation.

9. Evidently, the genesis of the offences is in the matrimonial discord, which struck the marital life of the parties within weeks of marriage. In a prosecution for an offence under Section 498A of the Penal Code, ordinarily, discretion to grant pre-arrest bail is exercised as custodial interrogation may not be warranted. However, the case at hand, presents a situation where the lady, who had gone against her family's wishes and performed the marriage with the applicant, was made to repent her choice within a month of the marriage. There are clear and specific allegations of unlawful demand and consequent harassment in order to coerce the first informant to meet the demand.

10. What *prima facie* incriminates the applicant is the alleged physical cruelty the first informant was subjected to by the applicant on the night intervening 21st and 22nd October, 2023. The injury certificate of the first informant

indicates that she had sustained multiple injuries on head and other parts of the body by hard and blunt, and sharp objects. The injury certificate *prima facie* lends support to the version of the first informant. Marks of injuries which the first informant had suffered in the past were also noted by the Medical Officer. As many as 16 injuries were noted on the person of the first informant.

11. The injury certificate of Ankush Lawande, the father of the first informant, also lends *prima facie* support to the version of the first informant that she had called her father, who came alongwith the police, and the applicant had assaulted her father as well. The fact that the first informant was required to be rescued with the assistance of the police *prima facie* belies the claim of false implication at the instance of her parents. In the aforesaid view of the matter, the applicant does not deserve the exercise of the discretion.

12. Hence the following order:

: O R D E R :

- (i) Application stands rejected.
- (ii) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

[N. J. JAMADAR, J.]