



(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

909 ANTICIPATORY BAIL APPLICATION NO. 192 OF 2024

SAMADHAN BAPU PAYAL

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

....

Ms Sheetal Vilas Salunke , Advocate for Applicant

Mrs D. S. Jape, A.P.P. for Respondents/State

CORAM : R. M. JOSHI, J.

DATE : 11th October, 2024

PER COURT :-

1. Applicant seeks anticipatory bail in connection with with Crime No.0494 of 2024 registered with Kallam Police Station, Dist. Osmanabad, for the offences punishable under Sections 498-A, 328, 313, 23, 504, 506 read with Section 34 of the Indian Penal Code.

2. First informant is the wife of applicant. She claimed that, she was married with applicant on 27/05/2016. She has a daughter out of said marriage. It is alleged in the report that her husband and in-laws caused harassment to her for not begetting a boy. She further claimed that, she was pregnant on second occasion. At that time, her husband told her for miscarriage of

(2)

fetus in anticipation that she will again give birth to a girl child, sought termination of pregnancy. It is alleged that, on 04/08/2023, she was administered with some poisonous pills for miscarriage of fetus. She, therefore became unconscious and was hospitalized by her neighbour Kishor Magar. In the Hospital, she found that miscarriage is caused. There is allegation that her husband, without paying bill of the Hospital, went away. It is also stated by the informant in the first information report that her younger sister eloped with the applicant.

3. Learned counsel for the applicant submits that the alleged incident is of 04/08/2023, whereas report is lodged on 18/11/2023. It is her submission that, there is nothing on record to indicate that fetus was female child. It is her submission that there is a delay in lodging first information report, as such, possibility exists that the same is lodged for the reasons her sister eloped with the applicant.

4. Learned APP opposed the application by placing reliance upon statement of Kishor Magar, who is neighbour of the

(3)

informant and has admitted her in the hospital. She also draws attention of this Court to the medical papers, which indicate miscarriage of the informant.

5. There is delay in lodging the first information report. It is stated therein that sister of the informant eloped with the applicant. Thus, there is possibility that report is filed for this reason. Apart from this, there is absolutely no evidence on record to indicate that miscarriage was caused on account of administering of poisonous pills. Furthermore, it is nothing on record that there is any possibility that applicant would to know gender of fetus in order to cause termination of pregnancy.

6. It is alleged that applicant is not cooperating in the investigation. The report indicates that he appeared before the Investigating Officer. Investigating Agency cannot expect that accused would provide evidence against himself, it is the duty of Agency to collect evidence. The Court therefore finds no substance in the said grievance made by learned APP.

(4)

7. Hence, this is a fit case for grant of anticipatory bail.
Hence, this application is allowed in terms of the interim order
passed by this Court on 13/02/2024.

(R. M. JOSHI)
Judge

sjk