

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

ANTICIPATORY BAIL APPLICATION NO.912 OF 2023

Vijendra Suresh Patil Applicant
Versus
The State of Maharashtra & Anr. Respondents

Mr. Nikhil Wadikar, Advocate i/b. Niranjan M. Kandade a/w.
Shweta Pandey, Malhar Pawar for the Applicant.

Mr. Avinash A. Naik, APP for the Respondent-State.

Mr. Anurag Ghag, Advocate for the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 18th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.40/2023 registered at Khandeshwar Police Station, Navi Mumbai on 20.2.2023 under sections 498-A, 323, 504, 506, 392 read with 34 of IPC.

2. Heard Mr. Nikhil Wadikar, learned counsel for the Applicant, Mr. Avinash Naik, learned APP for the Respondent-State and Mr. Anurag Ghag, learned counsel for the Respondent No.2.

3. The Applicant was protected by an ad-interim relief vide order dated 20.3.2023. Thereafter the parties were referred for mediation by the Predecessor of this Court vide order dated 26.9.2023. Now the Mediator's report is received by the Court. The report dated 30.10.2023 mentions that the mediation had failed and there was no possibility of amicable settlement.

4. In this view of the matter, I am proceeding to decide this matter on merits.

5. The FIR is lodged by the Applicant's wife. She has stated that she was working as a Teacher at Panvel. She had got married with the Applicant on 31.5.2017. Her father had given gold ornaments as her *Stridhan*. He had given gold chain and ring to the Applicant. After her marriage, the informant started residing with the Applicant's family consisting of his parents, elder brother and elder brother's wife. It is mentioned in the FIR that the Applicant was addicted to liquor and under the influence of liquor he used to harass the informant. He used to beat her. The other family members used to instigate him. The

Applicant lost his job with a bank in the year 2018. Thereafter the informant's father and uncle found a job for him at Kharpada. The informant delivered their daughter on 27.6.2019. Since September, 2020, there was some improvement in the Applicant's behaviour. He suggested that the informant's father should help them in getting a room on rent. The informant's father arranged for a rental flat in his own building. It is alleged that during their cohabitation the Applicant had taken some objectionable photographs of the informant on his phone. He used to threaten to make them viral. On 10.7.2022, the Applicant assaulted her and used a hot spoon to cause burns to the informant on her hand. He tried to throttle her. On the next day, both of them went to attend their office. This incident took place on 10.7.2022. Since the Applicant had threatened making the photographs viral, she did not tell this incident to anybody. On 11.7.2022, under the threat of using a knife, the Applicant took the informant to her parent's house and took away their gold ornaments forcibly. On 31.7.2022 under the influence of liquor, he again assaulted her. Therefore, she

left the the flat and went to reside with her parents. On one occasion he abused her parents as well. In September, 2022 the Applicant left that place. On 4.12.2022 the Applicant again returned to that flat and threatened the informant that he would make her photographs viral. Ultimately the informant left his company and she with her daughter started residing with her parents. On this basis, the FIR is lodged.

6. Learned counsel for the Applicant submitted that it was a matrimonial dispute and to give a serious colour to the dispute, this false FIR is lodged. He submitted that the serious allegations are about the robbery and about giving burns to the informant. This, according to the informant, had taken place on 10.7.2022 and 11.7.2022, however, these allegations are false which can be demonstrated by the fact that there was normal cordial communication through WhatsApp messages between them on 13.7.2022 and 17.7.2022. Learned counsel referred to Exhibit-E annexed to this memo, which shows such messages sent by the informant to the Applicant. He, therefore, submitted that the allegations are false.

7. Learned counsel submitted that the Applicant had not taken any objectionable photographs. His phone is already recovered by the police. There is delay of more than seven months in lodging the FIR in respect of those instances. He submitted that the Applicant is willing to cohabit with the informant but the informant is not cooperating.

8. Learned counsel for the first informant submitted that the serious allegations are about the objectionable photographs and the Applicant has taken backup of those photographs and had given a blank mobile phone to the investigating agency. He is not willing to return the ornaments. Therefore, his custodial interrogation is necessary.

9. Learned APP produced the investigation papers before me. They contain the statements of the neighbours of the informant and the Applicant's rented premises. Those witnesses have stated about the allegations that the Applicant used to consume liquor and under that influence used to quarrel with the informant and her father. Apart from that there is no further

corroboration to the FIR given by the informant except through the statements of her close relatives. Therefore, the allegations which could be considered are the allegations made in the FIR.

10. At this stage, there is some substance in the submissions of learned counsel for the Applicant that if the serious instances had taken place on 10.7.2022 and 11.7.2022, there could not have been cordial messages from the informant to the Applicant on 13.7.2022 and 17.7.2022. Therefore, there is some element of exaggeration in the FIR.

11. Learned APP, on the instructions and from perusal of the record of investigation carried out so far, has conceded that there are no medical certificates showing any such burn injuries having been suffered by the informant. He accepted that the mobile phone of the Applicant is already seized and it is sent for forensic examination.

12. Considering all these aspects, custodial interrogation of the Applicant is not necessary. It is sufficient if he cooperates with the investigation. However, if the forensic examination of

the mobile phone shows that really there were some objectionable photographs of the informant taken by the Applicant, liberty is given to the State as well as to the informant to move an application for cancellation of this anticipatory bail order.

13. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.40/2023 registered at Khandeshwar Police Station, Navi Mumbai, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned police station as and when called and shall cooperate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2024.03.19
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