

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

ANTICIPATORY BAIL APPLICATION NO. 884 OF 2024

Yogesh Kailaschandra Kumbhar Applicant

Versus

The Senior Inspector of Police and Anr. Respondents

Mr.Rizwan Merchant a/w Swapnil Wagh a/w Sayyed Zehra a/w Mamta Tiwari, for the applicant.

Mr. Nitin B. Patil , APP for the State/Respondent.

CORAM :SARANG V. KOTWAL, J.

DATE : 4th APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R No. 156 of 2024 registered at Borivali Police Station, Mumbai, on 06/03/2024, under Sections 377, 498-A, 406, 354, 354-A, 354-C, 509 r/w 34 of the Indian Penal Code.

2. Heard Mr. Rizwan Merchant, learned counsel for the Applicant and Mr. Nitin Patil, learned APP for the Respondent-State.

3. The FIR is lodged by the Applicant's wife. She has stated that after her Graduation, she was looking for a marriage proposal. The Applicant's name was suggested. She got married with the Applicant on 18/02/2022. During the wedding, the informant's father spent sufficient amount for giving ornaments and cash. After marriage she resided with the Applicant's family at Rajasthan and thereafter, she came to reside with the Applicant's family at Borivali, Mumbai. There were other family members including the Applicant's parents, brother, sister and sister's children. There are allegations that the Applicant's mother took stridhan of the informant and kept it with herself. The Applicant's mother used to make her work and was causing ill- treatment. There are other allegations against the other male members of the family of the Applicant. It is alleged that the others were instigating the Applicant and therefore, he used to quarrel with the informant. There are allegations against the Applicant that he was forcing the informant to keep the physical relations which would attract section 377 of the I.P.C. The Applicant never introduced the informant properly with his friends. There are allegations that in

December 2022, the informant suffered from Dengue , but the Applicant's mother still made her to do the household work. The Applicant advised her to go to her parents' place. The Applicant took the informant to her parents' house in January 2023 at Chennai. Thereafter, there was no co-habitation. The Applicant never tried to bring her back to her matrimonial house. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the informant had filed Petition for execution of conjugal rights before the family Court at Madras and therein the parties were referred for mediation. This fact is suppressed by the informant in her FIR. The Applicant himself had filed divorce proceedings in the family Court at Bandra, Mumbai and after that the present FIR is lodged against the Applicant. He submitted that the allegations of commission of offence under section 377 of the I.P.C. are made only to give serious colour to the allegations and those allegations are not true. For these allegations the custodial interrogation of the Applicant will not serve any purpose.

5. Learned APP relied on the statements made in the FIR. He opposed these submissions.

6. I have considered these submissions. The FIR mentions various allegations. Most of the allegations are against the other family members of the Applicant and in particular are against the mother of the Applicant. Learned counsel for the Applicant submitted that the other accused are granted anticipatory bail by the Sessions Court. As far as the Applicant is concerned, there are only vague allegations against him. The main grievance appears to be that after the Applicant brought her to her parents' house, he did not make any efforts to bring her back. The allegation for commission of offence punishable under section 377 of the I.P.C. are made by the informant but now their relations are strained. There is a possibility that these allegations are made to give serious colour to the offence. For that purpose, the custodial interrogation of the Applicant is not necessary. Considering the other vague allegations against the Applicant and also considering the fact that these allegations are in the nature of matrimonial

dispute, custodial interrogation of the Applicant is not necessary.

Hence the following order.

ORDER

- (i) In the event of his arrest in connection with C.R No. 156 of 2024 registered at Borivali Police Station, Mumbai, the Applicant is directed to be released on bail on his executing 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 co-operate with the investigation.
- (iii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)