

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

ANTICIPATORY BAIL APPLICATION NO.1080 OF 2024

Nikhil Brijendrakumar Shukla Applicant
Versus
The State of Maharashtra Respondent

Mr. Yogesh P. Gandhi, Advocate a/w. Payal Shah, Advocate for the Applicant.

Mr. Niranjana Mundargi, Advocate a/w. Ms. Sapana Rachure, Kalyani Wagle i/b. T.N. Tripathi, for the complainant.

Ms. Poonam P. Bhosale, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 23rd APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.183/2024 registered at Kasarvadavali Police Station, Thane City on 24.1.2024 under sections 406, 498-A, 504 read with 34 of IPC.

2. Heard Mr. Yogesh Gandhi, learned counsel for the Applicant, Mr. Niranjana Mundargi, learned counsel for the complainant and Ms. Poonam Bhosale, learned APP for the Respondent-State.

3. The FIR is lodged by the Applicant's wife. She has stated that she got married with the Applicant on 25.11.2022. They got to know each other through a matrimonial site. It is alleged that the informant's parents spent for the expenses of the wedding as well as engagement ceremony. The Applicant and his parents were given expensive gifts and ornaments. After her marriage, she started staying with the Applicant with his parents. It is alleged that for about a month their cohabitation was peaceful but after that the Applicant's mother used to ask her about her ornaments and later she took it from the informant. It is her case that the Applicant and his father used to tell her to go to her parents' house to take care of the informant's mother. In February, 2023 the informant had gone to her parents' place as her sister was to appear for the 12th class examination. In March, 2023 she returned back to her matrimonial house. Her sister-in-law i.e. the Applicant's sister came there for staying for some days. Therefore, the Applicant and his parents used to tell the informant to go to her parents' house to look after her parents. On 9.4.2023, the informant

had gone to her parents house to attend one get-together. The Applicant had accompanied her. After the function, the Applicant and his parents went back to their house. They told the informant to stay at her parents' house to look after the informant's mother. After that they did not contact the informant. In May, 2023 the Applicant's family members came to the informant's house to take her back to the matrimonial house. At that time, the Applicant's mother had complained to the informant's parents about various things. They had objections about the informant's attire and other behaviour. In short, they were not happy with the informant. After that the informant was taken back to her matrimonial house. After a few days, her brother came to her matrimonial house to take her back to her parents' house but at that time the Applicant's mother was to undergo knee surgery and, therefore, there was a quarrel between the informant and the Applicant. It is her case that she was not treated properly. From June 2023, she came back to reside with her parents. After that she lodged her FIR on 24.1.2024.

4. Learned counsel for the Applicant submitted that the Applicant has initiated divorce proceedings by approaching a competent Court on 15.12.2023. He had filed divorce proceedings in the Court of Civil Judge, Senior Division, Palghar. As a counter-blast to these proceedings, the informant lodged this FIR on 24.1.2024 and her own divorce proceedings on 23.1.2024. He submitted that the FIR is lodged with malafide intentions to pressurize the Applicant. No offence under Section 498-A or under Section 406 of IPC is made out. The informant had lodged her proceedings in the Court at Thane and the FIR at Kasarvadavali. It is causing harassment to the Applicant and his family. The other accused in this case are already granted anticipatory bail.

5. Learned APP opposed these submissions. She submitted that the informant was harassed mentally and physically. Therefore, anticipatory bail should not be granted to the Applicant. Learned counsel for the informant submitted that even if it is assumed that Section 498-A is not attracted, there are definite allegations in respect of Section 406 of IPC

as the informant's ornaments and *stridhan* are retained by the Applicant's family.

6. I have considered these submissions. As reproduced above, the FIR hardly makes any allegations which would attract Section 498-A of IPC. At the highest, it is a case of desertion; but the allegations do not fall within the ingredients of Section 498-A of IPC. There is no allegation of any physical torture at all. Even otherwise the grievance of the informant would not fall within the meaning of cruelty as required under Section 498-A of IPC.

7. As far as Section 406 of IPC is concerned, the allegations are against the Applicant's mother. It is apparent that the FIR is lodged after the relationship between the Applicant and the informant had become strained. The informant was residing with her parents from June, 2023 and the FIR was lodged on 24.1.2024. This also shows that the FIR is lodged as an afterthought and more particularly after the Applicant had taken steps for preferring proceedings for divorce in the Court of Civil Judge, Senior Division, Palghar.

8. Considering all this discussion, no case for denial of anticipatory bail is made by the informant. There is force in the submissions of learned counsel for the Applicant. Hence, the Applicant deserves to be granted anticipatory bail under Section 438 of Cr.P.C.. It is made clear that all these observations are made only for deciding the present Application.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.183/2024 registered at Kasarvadavali Police Station, Thane City, 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) Anticipatory Bail Application stands disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2024.04.26
10:55:51 +0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)