

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

ANTICIPATORY BAIL APPLICATION NO.101 OF 2024

Shumail Muhammed Sohel Ahmed
Karari Applicant
Versus
The State of Maharashtra
and another Respondents

Mr. Amol Joshi, Advocate i/b. Umesh Kumar for the Applicant.
Smt. M.R. Tidke, APP for the Respondent No.1-State.
Ms. Mamta Pandey, Advocate i/b. S. G. Waghmare (appointed
Advocate) for the Respondent No.2
Ms. Shamim Siddiqui, Advocate for the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 12th SEPTEMBER, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.203/2023 registered at Kharghar Police Station, Navi Mumbai on 12.6.2023 under sections 406, 498-A, 504 read with 34 of IPC.

2. Heard Mr. Amol Joshi, learned counsel for the Applicant and Ms. M.R. Tidke, learned APP for the Respondent-State. Advocate Ms. Shamim Siddiqui appears and states that she has instructions to appear for the first informant and she undertakes to file Vakilpatra in this case during the course of the day. Therefore, I have also heard her for the first informant.

3. The FIR is lodged by the first informant, wife of the Applicant, on 12.6.2023. She has stated that she got married with the Applicant on 30.12.2020. At that time, her father had spent for the expenses. He had given ten tolas gold in the form of ornaments to the informant. After her marriage, she started residing with the Applicant and his parents at Nalasopara. After the marriage, on the next day itself the Applicant told her that he was forced to marry the informant by his parents. The FIR mentions that on one occasion, the Applicant's mother had quarreled with her and had abused her. But even then the Applicant had scolded the informant. The Applicant's mother used to make the informant do all the

household work. The Applicant's parents used to taunt her because according to them, the informant's father had not given sufficient ornaments. On all these occasions, the Applicant never took her side. When the informant went to her parent's house after her marriage, the Applicant had told her not to talk with anybody and he used to pass remarks against her. In December, 2021 the informant and the Applicant had gone to Mahabaleshwar. They were accompanied by the Applicant's parents. On one occasion, the Applicant's mother instigated him and, therefore, he had quarreled with the informant. In May, 2021 the informant's mother was admitted to hospital because of COVID, but, the informant was not sent to her parent's place. It is alleged that the Applicant had relationship with another lady before his marriage. The Applicant used to tell the informant that he did not like her. He used to pickup quarrel with her and thus he has ill-treated her. He used to ask for divorce. In 2022, the Applicant's father called her mother to their house and quarreled with her because according to him sufficient

ornaments were not given in the wedding. Ultimately in April, 2022 the informant left her matrimonial house, but, the Applicant's parents did not give her clothes and the ornaments. Since then she is residing with her parents. Ultimately this FIR was lodged.

4. Learned counsel for the Applicant submitted that the Family Court at Bandra had passed an order dated 16.2.2023 dissolving the marriage between the Applicant and the informant under Section 28 of the Special Marriage Act. After this order was passed on 16.2.2023, this FIR was lodged. He submitted that the FIR itself mentions that the informant was residing separately from the Applicant since 2022 and the FIR is lodged after more than a year. In any case, even bare perusal of the FIR does not make out a case under Section 498-A of IPC. The other allegations are against the Applicant's parents. Therefore, the Applicant's custodial interrogation is not necessary.

5. Learned counsel for the first informant submitted that the decree of divorce was obtained fraudulently by

forging her signatures, for which the proceedings are pending against the Applicant's Advocate before the Bar Council of Maharashtra and Goa. She submitted that the allegations in the FIR are true and, therefore, anticipatory bail may not be granted to the Applicant.

6. Learned APP, on instructions of the Investigating Officer, submitted that the Applicant has attended the concerned police station and has cooperated with the investigation. The investigation is complete and the charge-sheet is already filed.

7. I have considered these submissions. The allegations in the FIR are reproduced hereinabove. All these allegations are mostly against the Applicant's parents. There are certain allegations against the Applicant of scolding the informant and not taking her side in the quarrel between the Applicant's mother and the informant. There are allegations that the Applicant was having relationship with another lady before the marriage. However, the investigation has not revealed any such relationship, according to the learned APP.

8. All other allegations made in the FIR may not satisfy the ingredients of Section 498-A of IPC. The other allegations regarding commission of offence punishable under Section 406 of IPC are made against the Applicant's parents.

9. The Applicant has attended the police station and has cooperated with the investigation. The charge-sheet is already filed. Therefore, his custodial interrogation is not necessary. The allegations that the decree of divorce is obtained fraudulently is a separate subject matter, for which the informant can take steps separately in accordance with law. In this view of the matter, the Applicant can be protected by an order under Section 438 of Cr.P.C.. It is made clear that these observations are made only for the purpose of deciding this Application. The learned trial Judge at the appropriate stage shall not be influenced by these observations while deciding the trial.

10. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.203/2023 registered at Kharghar 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) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
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