

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

ANTICIPATORY BAIL APPLICATION NO. 1962 OF 2024

Mohd. Moazzam Arif

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Sharad T. Bhosale a/w Ms. Sushama Y. Patil, for Applicant.
- Mr. Prasanna Pradeep Malshe, APP for Respondent.
- Mr. Kishor T. More, API, Tulinj Police Station.
- Mr. Lohkare, Constable, Tulinj Police Station.

CORAM : MANISH PITALE, J.

DATE : 26th July, 2024.

P. C. :

1. Heard Mr. Sharad Bhosale, leaned counsel for the applicant and Mr. Prasanna Malshe, learned APP for the State.
2. The applicant is apprehending arrest in connection with First Information Report No.0847 of 2023 (FIR), dated 04th December, 2023, registered at Police Station Tulinj, District Palghar, for the offences under Sections 498-A, 323 and 504 read with 345 of the Indian Penal Code (IPC).
3. The applicant is the husband of the informant and in the FIR the applicant and his seven relatives have been arraigned as accused persons.
4. On 21st December, 2023, the Sessions Court had granted interim relief in favour of the applicant and the other accused persons, while their

SHRIKANT
SHRINIVAS
MALANI

Digitally signed by
SHRIKANT
SHRINIVAS MALANI
Date: 2024.07.26
17:47:12 +0530

application for anticipatory bail was pending. Thereafter, on 26th June, 2024, the application was disposed of by confirming interim order granted in favour of the co-accused persons, but the application insofar as the applicant is concerned was dismissed.

5. The learned counsel for the applicant submits that the statement of the informant, leading to registration of the FIR, shows general allegations of harassment made against the applicant along with his relatives. It is submitted that matrimonial discord led to this situation where initially the informant instituted a proceeding under the provisions of the Protection of Women from Domestic Violence Act, 2005 and thereafter, the FIR came to be registered. It is submitted that the custody of the applicant is not necessary in the light of the allegations made by the informant and that the applicant is ready to cooperate with the investigation.

6. In response to specific contention recorded by the Sessions Court that the applicant had not abided by the conditions imposed by the Sessions Court while granting interim order, it is submitted that the applicant is in service at New Delhi and although he did make efforts to book tickets and to remain present before the concerned Police Station on every Sunday, he could not abide by the condition and this aspect may be taken into consideration in the present application.

7. On the other hand, learned APP submits that the tenor of the statement of the informant leading to registration of the FIR shows that the thrust of the allegations is against the applicant, who is the husband of the informant – victim. It is submitted that since he is attributed with a major role, his case is distinguishable from that of the other accused persons and in the light of the fact that the applicant violated specific condition imposed by the Sessions Court while granting interim order, indulgence may not be shown to the applicant.

8. This Court has perused the statement of the informant leading to registration of the FIR. Although, the informant has described the manner in which she suffered harassment at the hands of the applicant, it appears that the genesis of such allegations is matrimonial discord between the applicant and the informant. In the statement of informant itself it is recorded that she first initiated the aforesaid proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 and thereafter, caused registration of the present FIR.

9. Considering the nature of the allegations made against the applicant, this Court is of the opinion that custody of the applicant is not required, as long as he is ready to cooperate with the investigation.

10. Since there is a specific allegation made against the applicant that he has violated a condition, when interim order was granted in his favour by the Sessions Court, this Court deems it appropriate to keep the present application pending while granting interim relief to the applicant, so as to verify as to whether the applicant abides by conditions that this Court intends to impose upon him while granting anticipatory bail.

11. There shall be interim order in the following terms :

- (A) Till the next date of listing, in the event the applicant is arrested in connection with FIR No.0847 of 2023 (FIR), dated 04th December, 2023, registered at Police Station Tulinj, District Palghar, for the offences under Sections 498-A, 323 and 504 read with 345 of the Indian Penal Code (IPC), he shall be released on bail, on furnishing PR Bond of ₹ 25,000/- and cash surety in the like amount.
- (B) The applicant shall remain present before the Investigating Officer on 01st August, 2024 and 02nd August, 2024 between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer.
- (C) The applicant shall cooperate with the investigation.
- (D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or

any other persons concerned with the case.

12. Needless to say, violation of any of the aforesaid conditions may result in this order being cancelled.

13. List the application for further consideration on **07th August, 2024, to be listed in the “Supplementary List.”**

14. This Court expects the learned APP to take specific instructions as to whether the applicant has abided by the aforesaid conditions.

(MANISH PITALE, J.)