

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

ANTICIPATORY BAIL APPLICATION NO. 2437 OF 2024

Mohammad Baquir Agha	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Ashok P. Mundargi, Senior Counsel, i/by Pravada Raut for the Applicant.

Mr. Sagar R. Agarkar, APP for Respondent No.1-State.

**CORAM: MANISH PITALE, J.
DATE : 12th SEPTEMBER 2024**

P.C. :

1. Heard learned Senior Counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0204 of 2024 dated 15th June 2024 registered at Manikpur Police Station, Dist. Mira-Bhayandar, Vasai-Virar, for offences under Sections 498-A, 377, 406, 504 and 506 read with 34 of the Indian Penal Code, 1860 (IPC).

3. The applicant in the present case is the husband of the informant. The informant has levelled allegation of harassment against the applicant and his mother, who is a co-accused person. The Sessions Court granted anticipatory bail to the mother of the applicant. Amongst other allegations of harassment, the informant

has also made specific allegation, leading to registration of serious offence under Section 377 of the IPC.

4. The learned Senior Counsel appearing for the applicant submits that as regards the allegations of harassment corresponding to the offence under Section 498A of the IPC, the Sessions Court itself has observed that such allegations appear to be vague and omnibus. The prayer for anticipatory bail of the applicant has been rejected essentially on the ground that serious offence under Section 377 of the IPC is registered against the applicant. In that context, it is brought to the notice of this Court that the applicant and the informant got married on 19th November 2023 and even according to the informant, she left the matrimonial house on 9th February 2024, while the FIR was registered more than 4 months later i.e. on 15th June 2024.

5. Reliance was placed on the Say of the Investigating Authority itself before the Sessions Court, wherein it is acknowledged that part of *Stridhan* of the informant is already returned to her and what is still to be returned is perhaps jewellery given by the applicant to the informant during marriage. It is submitted that the applicant is ready to cooperate with the investigation and since, the allegations arise from matrimonial dispute, this Court may consider showing indulgence to the applicant.

6. On the other hand, the learned APP submits that there is

specific allegation against the applicant as regards the serious offence under Section 377 of the IPC and there are also allegations regarding harassment suffered by the informant in the matrimonial house, during the period when the informant stayed with the applicant after marriage.

7. This Court has considered the rival submissions. Since, the informant herself has stated that she left the matrimonial house on 9th February 2024, it is apparent that she lived with the applicant in the matrimonial house for only about 3 months. The FIR was registered on 15th June 2024 i.e. 4 months after she left the matrimonial house. The allegation pertaining to offence under Section 377 of the IPC would therefore necessarily be concerned with a time period between 19th November 2023 and 9th February 2024. Apart from the said aspect of the matter, it is found that in such cases, where the dispute is having its root in matrimonial discord between husband and wife, there is a tendency to exaggerate the nature of harassment suffered at the hands of the accused persons.

8. The Sessions Court has already noted that the allegations corresponding to Section 498A of the IPC and other offences registered in the present case, can be said to be vague. In any case, such allegations appear to be general in nature with absence of specific timeline in respect of the serious offence under Section 377 of the IPC. It is a matter of record that part of the *Stridhan* of the informant is already returned to her. In such a situation, so

long as the applicant is ready to cooperate with the investigation, it would be in the interest of justice that the present application is allowed.

9. Accordingly, the application is allowed in the following terms :

(a) In the event the applicant is arrested in connection with FIR No. 0204 of 2024 dated 15th June 2024 registered at Manikpur Police Station, Dist. Mira-Bhayandar, Vasai-Virar, he shall be released on bail on furnishing PR Bond of Rs.25,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

(b) The applicant shall remain present before the Investigating Officer on 14th September 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, including remaining present for medical examination, if required and also to surrender his mobile phone, if demanded by the Investigating Officer.

(c) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses or any other person concerned with

the case.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application.

11. The application is disposed of.

MANISH PITALE, J.