

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3045 OF 2024

Tejas Raju Bendre ... Applicant

Vs.

State of Maharashtra ... Respondent

Ms. Nimala Bhosale a/w. Ms. Prajakta Sawant and Ms. Ashwini Ghadigaonkar
for Applicant.

Ms. Rutuja A. Ambekar, APP for Respondent-State.

CORAM : MANISH PITALE, J.

DATE : NOVEMBER 18, 2024

P.C. :

1. Heard Ms. Bhosale, learned counsel for the applicant and Ms. Ambekar, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0255 of 2024 dated 03.08.2024 registered with Arnala Police Station, District - Mira Bhayander, Vasai Virar, for offences under Sections 313, 323, 498-A, 504, 506 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The statement of the informant i.e. the wife of the applicant shows that she has a grievance against the applicant about the manner in which he treated her after marriage. It is also alleged that the applicant is having an affair with another lady living in the neighbourhood. An allegation is made that in June 2023, the applicant gave certain medicine to the informant i.e. his own wife, which resulted in abortion. On the basis of such allegations, the said offences have been registered.

4. The learned counsel for the applicant relies upon the documents filed along with the application, which include a notice for restitution of

conjugal rights sent on behalf of the applicant to the informant, as also reply to the said notice sent on behalf of the informant through her advocate. It is submitted that matrimonial discord is the root cause and that attempts were also made by families of both sides to find a solution. After the attempt could not succeed, the informant has caused the FIR to be registered on the basis of exaggerated allegations.

5. The learned APP has opposed the present application, relying upon the statement of the informant and also other documents found during the course of investigation. It is submitted that mobile of the applicant is required to investigate further into the allegations of extra-marital affair and other such aspects of the matter.

6. This Court has considered the rival submissions in the light of the material available on record as also upon perusal of investigation papers. The application deserves to be allowed for the following reasons:-

- a. It has come on record that the informant had approached Sinhgad Police Station, District Pune on 12.12.2023 when she left the company of the applicant and went to her mother's place. At that point in time, a report of non-cognizable offence (NC) was registered under Sections 323 and 504 of the IPC. This indicates that the first point in time when the informant approached the police, she did not make any allegation pertaining to offence under Section 313 of the IPC and even offence under Section 498-A thereof;
- b. The applicant issued notice for restitution of conjugal rights on 17.07.2024, stating in chronological details, as to the manner in which events unfolded including the NC report at Sinhgad Police Station, Pune and called upon the informant to join his company. It was in response to the said notice i.e.

on 01.08.2024, that the informant for the first time made the allegation about forced abortion through medicines at the behest of the applicant. It appears that due to the matrimonial discord, the informant improved upon her version and thereafter immediately on 03.08.2024, caused the FIR to be registered.

- c. The allegation pertaining to forced abortion was of June 2023 and yet, the informant did not mention the same when she got the NC registered against the applicant on 12.12.2023 at Sinhgad Police Station, Pune. This further supports the contention raised on behalf of the applicant that the said allegation is an exaggerated version due to the matrimonial discord between the parties. The allegations regarding harassment relatable to offence under Section 498-A of the IPC are general in nature without any specifics;
- d. Some portions of the allegations made in the statement of the informant leading to registration of the FIR appear to be contradicting the claims made on behalf of the informant in her reply dated 01.08.2024 to the notice of restitution of conjugal rights sent on behalf of the applicant.
- e. The root cause of the discord between the parties appears to be the alleged extra-marital affair of the applicant. But, in this context, the applicant is ready to surrender his mobile phone and therefore, a *prima facie* case is made out by the applicant in his favour.

7. For the aforesaid reasons, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0255 of 2024 dated 03.08.2024 registered with Arnala Police Station, District - Mira Bhayander, Vasai Virar, he shall be released on bail on furnishing PR Bond of Rs.25,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer on 21.11.2024 and 22.11.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer;
- C. The applicant shall co-operate with the investigation and he shall surrender his mobile phone before the investigating officer;
- D. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

8. 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 and that the trial Court shall proceed further, without being influenced by the observations made in this order.

9. The application is disposed of.

(MANISH PITALE, J.)