

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3345 OF 2024

Abhilash Sanjay Vispute ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Abhishek Karnik a/w. Mr. Onkar Wable for Applicant.
Mr. Mayur S. Sonavane, APP for Respondent-State.
Mr. Prabhakar Sonavane, PSI, Upnagar Police Station.

CORAM : MANISH PITALE, J.
DATE : DECEMBER 12, 2024

P.C. :

1. Heard Mr. Karnik, learned counsel for the applicant and Mr. Sonavane, learned APP for the respondent-State.

2. In this application, the applicant is apprehending arrest in connection with FIR No.0456 of 2023 dated 10.12.2023 registered with Upnagar Police Station, District - Nashik, for offences under Sections 323, 377, 406, 498-A, 504, 506 read with 34 of the Indian Penal Code, 1860 (IPC).

3. The informant, in the present case, is the wife of the applicant and on the basis of the allegations made in the statement, serious offences have been registered against the applicant and the co-accused persons. Co-accused persons are the relatives of the applicant and they all have been granted protection from arrest. The anticipatory bail application of the applicant was disposed of by the Sessions Court by an order dated 30.03.2024, only on the ground that since the applicant is presently in United States of America (USA) and he could also not be served notice under Section 41(1)(d) of the Code of Criminal Procedure, 1973, there

can be no apprehension of arrest.

4. The learned counsel for the applicant submits that the allegations made in the statement of the informant, leading to registration of the FIR, indicate exaggeration in the backdrop of the matrimonial discord between the parties. It is submitted that such allegations pertain to the alleged acts of the applicant in December 2022 and January 2023 in USA, while the FIR came to be registered on 10.12.2023, when the informant came to India.

5. It is further submitted that the applicant undertakes to co-operate with the investigation during his visit to India, which he intends to undertake from 07.02.2025 onwards for a period of two weeks. It is submitted that in these circumstances, the present application may be allowed.

6. On the other hand, the learned APP submits that the detailed statement of the informant indicates chronologically as to the manner in which the applicant inflicted sexual violence on the informant, who is his wife. The ingredients of the serious offences under Sections 377 as also Section 498-A of the IPC are clearly made out, and therefore, this Court may not show any indulgence to the applicant.

7. This Court has heard rival submissions in the light of the material on record. The statement of the informant indicates the chronological sequence of events as claimed by her, in which she has indeed made certain serious allegations against the applicant with regard to the offence under Section 377 of the IPC. Specific incidents of such acts have been stated, which pertain to December 2022 and January 2023. It is to be noted that the said incidents allegedly occurred in USA, where the informant was residing with the applicant after marriage. But, there is nothing to indicate that the informant, at any stage, raised grievance

about any such incident before the authorities in USA.

8. The FIR was registered on 10.12.2023, after the informant had returned to India. This Court finds that in such matters where the genesis of the dispute is matrimonial discord between the parties, there is a tendency to exaggerate and make allegations leading to registration of serious offences against the accused. As to what happened between the husband and wife, within the four corners of their house, may be a matter of investigation, but the fact that such incidents took place in USA and the FIR, having been registered much later on 10.12.2023, would indicate that even the medical examination of the informant would not have revealed much, considering that such an exercise could not have been carried out proximate in point of time of the alleged incidents.

9. The applicant has undertaken to co-operate with the investigation and on instructions, the learned counsel for the applicant has made specific statement that the applicant would be visiting India on 07.02.2025, when he undertakes to appear before the investigating officer to co-operate with the investigation.

10. In these circumstances, this Court is inclined to allow the present application. Accordingly, it is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0456 of 2023 dated 10.12.2023 registered with Upnagar Police Station, District - Nashik, he shall be released on bail on furnishing PR Bond of Rs.50,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer on 10.02.2025 and 11.02.2025 between 10:00 a.m. and 12 noon and he shall co-operate with the investigation;

- C. The applicant shall present himself for medical examination, if necessary;
- D. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

11. 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.

12. The anticipatory bail application is disposed of.

(MANISH PITALE, J.)

Minal Parab