

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3400 OF 2024

Manoj Madhukar Babar ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Sachinkumar Rajepandhare for Applicant.

Mr. Bapu V. Holambe-Patil, APP for Respondent-State.

Mr. Swapnil Madhav Katode, Head Constable, Virar Police Station.

CORAM : MANISH PITALE, J.

DATE : DECEMBER 14, 2024

P.C. :

. Heard Mr. Rajepandhare, learned counsel for the applicant and Mr. Holambe-Patil, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0678 of 2024 dated 08.09.2024 registered with Virar Police Station, Mira Bhayander, Vasai Virar, for offences under Sections 323, 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. She has arraigned her mother-in-law, father-in-law and sister-in-law also as accused persons in the present case. She has alleged that after marriage took place on 10.02.2022 between the applicant and the informant, in the matrimonial house, she was harassed by all the accused persons.

4. The Sessions Court granted anticipatory bail to all the other accused persons, except the applicant, primarily on the ground that *Streedhan* and jewellery were to be recovered from the applicant.

5. The learned counsel for the applicant submits that the major offence in the present case is the offence under Section 498-A of the IPC, which provides for a maximum punishment of three years imprisonment. He relies on order passed by this Court in the case of *Anmol Madhukar Divekar Vs. State of Maharashtra*, **AIR Online 2022 Bom 4124**, wherein it was held that such an aggrieved person can initiate appropriate proceedings, including proceedings under the Protection of Women from Domestic Violence Act, 2005, for recovery of *Streedhan* and jewellery, but the aforesaid factor could not be a ground to deny the relief of anticipatory bail to the accused persons in such cases.

6. The learned APP submits that ingredients of the offence under Section 498-A of the IPC are made out, and therefore, this Court may not show any indulgence to the applicant, who is the main accused, being the husband of the informant.

7. The nature of allegations levelled by the informant do indicate that according to her, the applicant, who is her husband and the co-accused persons had harassed her in the matrimonial house. Specific allegations have been made with regard to the extent of jewellery, that was part of her *Streedhan*. The Sessions Court, while rejecting the prayer for anticipatory bail of the applicant before this Court, referred to a police report, which also gave details of the jewellery items that were allegedly delivered to the applicant during their marriage ceremony, holding that recovery of the same had to be undertaken, for which custodial interrogation of the applicant was necessary.

8. There is substance in reliance placed on behalf of the applicant on the order passed by this Court in the case of **Anmol Madhukar Divekar Vs. State of Maharashtra** (*supra*), wherein this Court, in similar circumstances, found that custody of the accused cannot be insisted upon

on the ground of recovering *Streedhan* or other jewellery to be handed over to the informant in such cases.

9. This Court is of the opinion that since maximum punishment for offence under Section 498-A of the IPC is imprisonment for three years and the informant certainly has the remedies available under other Statutes for claiming *Streedhan* and other jewellery, allegedly lying with the accused persons, only on the ground of seeking recovery of the same, custody cannot be insisted upon. The applicant has undertaken to co-operate with the investigation and since the genesis of the FIR appears to be matrimonial discord between the applicant and the first informant, this Court is inclined to allow the application, subject to appropriate conditions being imposed on the applicant.

10. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0678 of 2024 dated 08.09.2024 registered with Virar Police Station, 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 16.12.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;
- C. 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