

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3841 OF 2023**

Raja Roshanlal Sengar	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

**WITH
INTERIM APPLICATION NO. 59 OF 2024
IN
BAIL APPLICATION NO. 3841 OF 2023**

Ms. Anjali Patil a/w. Mr. Tohid Shaikh for applicant.

Mr. Tanveer G. Khan, APP for respondent-State.

Ms. Priyanka Dable for applicant-intervenor (first informant) in IA/59/2024.

Mr. V. N. Thakare, PI, Aarey Police Station, Mumbai.

CORAM : MANISH PITALE, J.

DATE : 04th DECEMBER, 2024

P.C. :

. Heard learned counsel for the applicant, the learned APP for the respondent-State and the learned counsel appearing for the intervenor (first informant).

2. In the present application, when hearing was conducted on 25.11.2024, this Court took specific note of the serious allegation made by the informant against the applicant in the FIR about certain objectionable videos of the informant being posted on porn websites by the applicant. Considering the seriousness of the allegations and assertion on the part of the applicant that there is no material to support such allegations, time was granted to the learned APP to peruse the charge-sheet and the documents filed therewith, to apprise this Court of such material, in the context of the aforesaid

serious allegation. Time was also granted because this Court took note of the fact that according to the applicant, the FIR was registered after he initiated proceedings for restitution of conjugal rights before the Family Court, Indore and it was indicated that grave allegations were made in that backdrop and as a counterblast.

3. Today, the learned APP has taken instructions and he is ready to make appropriate submissions. Before considering the said submissions, it would be appropriate to note the contentions being raised on behalf of the applicant.

4. In the present case, the applicant was arrested on 19.08.2023 from Indore in connection with FIR No.0179 of 2023 dated 11.08.2023 filed at Aarey Police Station, Mumbai, for offences under Sections 376, 376(2)(n), 377, 323, 506 and 504 of the Indian Penal Code, 1860 and Section 67A of the Information Technology Act, 2000.

5. The aforesaid FIR was registered on a detailed statement of the informant, wherein she gave entire chronology of events upto January 2023, which eventually led to registration of the aforesaid FIR.

6. The learned counsel for the applicant submitted that according to the applicant, he and the informant got married on 20.06.2020, although this is seriously disputed by the learned counsel appearing for the intervenor (first informant). It was submitted that the applicant and the informant, through their relationship, have a girl child and that serious allegations have been made by the informant, in the backdrop of discord between the two in their relationship and

as a matter of counterblast, in the light of the proceedings initiated by the applicant for restitution of conjugal rights in Family Court, Indore.

7. It is submitted that the applicant and the informant had lived together at Indore and at Naigaon, District Thane. The informant had left the company of the applicant from Indore in January 2023 and in that backdrop, on 16.05.2023, the applicant issued a notice through his advocate to the informant, seeking restitution of conjugal rights. This was followed up by filing appropriate proceeding under Section 9 of the Hindu Marriage Act, 1955 before Family Court, Indore. It is the case of the applicant that when notice issued by Family Court, Indore was received by the informant and when she became aware of the said proceeding, that she immediately caused the aforesaid FIR to be registered. It is because of the acrimonious manner in which the relationship of the applicant with the informant, was broken, that exaggerated and extremely serious allegations have been levelled against the applicant, which are not supported by the material on record.

8. It is further submitted that the applicant has suffered incarceration since 19.08.2023 and in the light of the strong *prima facie* case made out on behalf of the applicant, no purpose would be served in continuing the custody of the applicant. It is submitted that any condition may be imposed by this Court to address the apprehension expressed on behalf of the informant.

9. The learned APP, on the other hand, submitted that the statement of the informant, which led to registration of FIR, shows that serious allegations are made against the applicant, particularly

those pertaining to recording of certain videos of the informant, which are highly objectionable and which, according to the informant, were also made viral, apart from being posted on porn websites. It is submitted that the tenor of the statement of the informant, indicates the manner in which the applicant treated her and if the applicant is enlarged on bail, there is possibility of the informant being harmed and therefore, this Court may not allow the present application.

10. The learned counsel for the intervenor (first informant) has vehemently opposed the present application. It is submitted that the applicant treated the informant in a cruel manner and the details of the allegations made in the statement, leading to registration of FIR, sufficiently indicate that the applicant does not deserve any indulgence from this Court. It was submitted that the assertion on the part of the applicant that he was married to the informant, is absolutely false and therefore, there is no basis for initiating the proceedings for restitution of conjugal rights. The allegation that the FIR is delayed, is also not sustainable, for the reason that after returning from Indore to Mumbai in January 2023, the informant was constrained to live with her family, wherein her brothers are not willing to give shelter to her and in such a situation, she could gather courage to register the FIR only on 11.08.2023. It is submitted that in such a situation, when a strong *prima facie* case is made out by the applicant, the present application may be dismissed.

11. Having heard the learned counsel for the rival parties, this Court is of the opinion that the bail application can be allowed, for the following reasons:

- (a) The detailed statement of the informant, leading to registration of FIR, gives in chronological order as to the manner in which the relationship of the applicant with the informant developed over a period of time. Although references are made to the alleged cruel manner in which the applicant treated the informant, the statement reveals that from the year 2019 till January 2023, except for brief periods in between, the informant lived in the company of the applicant. This Court is not making any observation on the question as to whether they were married, for the reason that the informant has disputed the same. But, the fact that they lived together and they have a girl child from the relationship, is an admitted position. In fact, even according to the informant, in July 2022, she was again pregnant. But the applicant as well as the informant did not want to have the child and therefore, the child was aborted. Such material indicates that the informant *prima facie* lived in the company of the applicant voluntarily over a considerable period of time.
- (b) There are allegations of cruel behaviour alleged against the applicant with extremely serious allegations pertaining to June 2021. It is alleged that around the aforesaid time, the applicant had even uploaded objectionable videos of the informant on porn websites, which are stated in the FIR. Although the learned APP has studied the charge-sheet and the investigating officer is present in Court, it is not demonstrated as to what investigation was undertaken in that regard. Admittedly, no notices were sent to the named porn websites. There is otherwise also no material on record, as regards the alleged objectionable videos being posted on the porn websites. Therefore, the applicant has made out a *prima facie* case in his favour that the aforesaid allegation

appears to be exaggerated and in the absence of any foundational material.

- (c) The informant herself has stated that she joined the company of the applicant and lived with him, not only at Naigaon, District Thane, but also at Indore and eventually, she parted company with him in January 2023, to return from Indore to Mumbai. She came back to her family in Mumbai in January 2023 and in the backdrop of such cruel behaviour of the applicant, she eventually caused the FIR to be registered only on 11.08.2023. *Prima facie*, the explanation sought to be given on behalf of the applicant, regarding delay in registration of FIR, cannot be accepted at this stage.
- (d) In this context, the contention raised on behalf of the applicant that the exaggerated allegations in the FIR, can be said to be a counterblast, assumes significance. This Court has perused the documents on record, which show that on 16.05.2023, the applicant issued legal notice through his advocate for restitution of conjugal rights, asserting that the two were married on 20.06.2020. Thereafter, the applicant filed a proceeding under Section 9 of the Hindu Marriage Act, 1955, on 13.06.2023, before Family Court, Indore, seeking restitution of conjugal rights in which notice was issued to the informant, returnable on 23.08.2023. It is significant that the FIR was registered in the interregnum on 11.08.2023. The aforesaid material does indicate a strong *prima facie* case in favour of the applicant about his assertion that the FIR containing exaggerated allegations, can be said to be a counterblast.
- (e) Once this aspect is appreciated, it can be said that the informant may have certain grievance against the applicant with whom she was living and with whom she has borne a child. But, the

nature of exaggerated allegations, do not find support in the material filed alongwith the charge-sheet. The seriousness of the offences and the allegations levelled against the applicant, in that sense, can be said to be diluted, in the face of the material on record. It can be said that the acrimonious relationship that the informant had with the applicant, may perhaps have led to the exaggerated allegations made in the statement, leading to registration of FIR.

- (f) The applicant has already suffered incarceration from 19.08.2023. Investigation is completed and charge-sheet is filed. In view of the observations made hereinabove, no purpose would be served in keeping the applicant in judicial custody.
- (g) The apprehensions expressed on behalf of the first informant, cannot be ignored. But, appropriate conditions in that regard, can be imposed, as further incarceration of the applicant is not justified.

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

- (i) The applicant shall be released on bail in connection with FIR No.0179 of 2023 dated 11.08.2023 filed at Aarey Police Station, Mumbai, on furnishing PR Bond of ₹ 50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (ii) The applicant shall not enter the jurisdiction of Aarey Police Station, Mumbai, during the pendency of the trial.
- (iii) The applicant, upon being released on bail, shall report to Goregaon Police Station, Mumbai on first Monday of each month between 10:00 a.m. and 12:00 noon during the pendency of trial.
- (iv) Upon release, within one week, the applicant shall inform the

Investigating Officer as well as the trial court about his contact number and residential address and update the same in case of any change.

- (v) The applicant shall not contact the informant in any manner.
- (vi) The applicant shall surrender his passport, if any, with the investigating officer.
- (vii) The applicant shall co-operate with the trial Court in completing the proceedings expeditiously and attend the proceedings before the trial Court on each and every date, unless specifically exempted, for the reasons to be recorded in writing.
- (viii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not undertake any action that may influence the informant, witnesses and other persons concerned with the case.

13. The applicant shall be liable to face proceedings for cancellation of bail, in the event any of the aforesaid conditions is violated.

14. It is also clarified that the observations made in this order are limited to the disposal of the present bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

15. The application is disposed of.

16. In view of disposal of the bail application, the intervention application is also disposed of.

(MANISH PITALE, J)