

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 3452 OF 2024

Sarfaraz Hasan Shaikh

..... Applicant

VERSUS

State of Maharashtra & Ors.

..... Respondents

Mr. Advait Tamhankar for the Applicant.

Ms. Rutuja A. Ambekar, A.P.P. for the State.

Mr. Hamza Lakdawala for the Respondent No.3.

CORAM : RAJESH S. PATIL, J.

DATE : 11th FEBRUARY, 2025

P.C. :-

This application is filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with FIR No. 0913 registered with Malvani Police Station, Brihanmumbai Shahar for the offence punishable under Sections 498-A, 509, 323, 504, 506 of the Indian Penal Code, 1860 and Sections 3 and 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019.

2. It is the case of the prosecution that the informant has filed a case against her husband on the ground that it was her second marriage. So also for the applicant it was his second marriage. She had two children born out of her first marriage and the applicant was also father of two children out of his first marriage. After few months of the marriage, the applicant started demanding a sum of Rs.5 lacs from the informant. As the informant showed her inability to pay, the applicant started torturing the first informant. After harassment, the applicant ultimately gave her Triple Talaq on mobile phone through WhatsApp message and used the most of the filthiest language. Hence, the first informant lodged the FIR in the police station.

3. On behalf of the applicant, it is submitted that the applicant has not used any filthy language. The applicant in fact also offered to settle the issue by paying a lumpsum amount of Rs. 5 lacs to the first informant. Since it had become difficult for the applicant to stay with the first informant, who was his second

wife, the applicant went to stay with his first wife. Since the false complaint was filed by the first informant, the applicant approached the Sessions Court for granting anticipatory bail. However, the Sessions Court rejected the said application. Prior to lodging of the present FIR, the informant has not lodged a single NC with police station. This itself shows that the FIR has been lodged on a false ground. The applicant is ready to co-operate with the police as and when called for.

4. Learned counsel appearing for the respondent no.2 submits that the first informant was treated in abusing manner by the applicant and after marriage he started demanding monies from her for his business purpose. And as she declined to pay the monies, she was abused and beaten. So also, the applicant prepared a document which is called as deed of divorce and such a deed of divorce appears to be notarized before the Notary Public. He submits that such a document called as deed of divorce is un-heard under the Muslim Law and the document is

executed within one month of the marriage of the applicant with the first informant. He submits that the concept of Triple Talaq is no more legal. He submits that the applicant has circulated photographs of the informant on social media platform by stating that she is in the business of sex worker. Hence, due to such act of the applicant, the first informant started receiving objectionable calls on her mobile. He has down the dignity of modesty of the first informant. He has used abusive words against the first informant. Hence, this anticipatory bail application should be rejected.

5. The learned A.P.P. submits that the applicant has used filthiest language against the first informant which can be seen from the various chat which has been produced before this Court. The applicant though was married, got married for the second time to the first informant and within one month, he prepared the document which he calls as “deed of divorce”.

6. I have gone through the FIR and the documents on record.

The document prepared by the applicant termed as a deed of divorce can't be accepted. The said document has been prepared by him within one month of his marriage with the first informant. The applicant has made viral photographs of the first informant in a very defamatory manner stating therein that she is a sex worker. Therefore, the present case does not appear to be a simply matrimonial dispute as the applicant has used a social media platform to defame a lady.

7. On behalf of the applicant, the judgment of the Hon'ble Supreme Court passed in ***Satendra Kumar Antil vs. Central Bureau of Investigation and Anr.*** Reported in ***(2022) 10 SCC 51*** has been referred. The law as laid down in the said judgment refers to the conditions of granting bail and anticipatory bail. So also, there is reference to cases under Section 498A of Indian Penal Code, 1860. However, this findings does not help the applicant in the present proceedings where the applicant has circulated photographs of the informant/his second wife on social media platforms by stating that she is into the business of

sex worker. The print out of such text were part of the compilation filed by the complainant before this Court.

8. The accused has circulated photos of the complainant and has abused her. This shows a pattern of harassment and intimidation. If granted anticipatory bail, there is a high probability that he may continue harassing the complainant, which could lead to further victimization.

9. The learned Single Judge of this Court in ***Criminal Bail Application No. 713 of 2024 Mohd.Mobin Jahurul Hasan Manihar vs. State of Maharashtra dated 20th January, 2025*** was dealing with bail application under NDPS matter. Paragraph no.8 has been referred by the applicant, which dealt with capacity of jails. The issue referred by the learned Single Judge would not have any effect to the present proceedings.

10. On behalf of the informant, a compilation of the documents was tendered, which included copies of messages sent by the

applicant/accused to the complainant. In my view, most of them I found to be abusive and threatening.

11. Hence, the present **anticipatory bail application is rejected.**

[RAJESH S. PATIL, J.]

KVM

8/8

7 - ABA 3452 OF 2024.doc