

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION (ST) NO. 2224 OF 2020

Ebrahim Mohd. Iqbal Lakdawala Applicant

Versus

The State of Maharashtra Respondent

Ms. Misbaah Solkar i/b Mr. Amin Solkar for Applicant.

Mr. Adil Khatri for Complainant.

Mr. R.M. Pethe, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 21ST OCTOBER, 2020.

PC. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 416 of 2020 registered with Amboli Police Station, under sections 377, 498 A, 323, 504, 506 of the Indian Penal Code, Section 67 of the Information Technology Act and Section 3 and 4 of The Muslim Women (Protection of Rights on Marriage) Act, 2019.

2. The FIR is lodged by the victim herself on 28/08/2020.

She has stated in her FIR that, the applicant had married twice

earlier. He had five children from his first wife. After divorce from the first wife, he got married to second wife and even she was divorced. The first informant got married with the applicant on 07/09/2018. At that time, her mother's 15 tola gold was given to her and Rs.3,50,000/- were spent during marriage. The FIR further mentions that, the applicant gave some intoxicating drink to the first informant and in that situation took some photographs and recorded video of the first informant. The FIR further mentions that, the applicant had unnatural sex with her in October, 2018. He had inserted aluminium rod causing bleeding in her private parts. The first informant had gone to her doctor but did not tell her the real fact. The applicant did not want child from this marriage and there was quarrel between them. It is alleged in the FIR that, the applicant used to harass her and used to ask her to bring money from her parental house. According to the first informant, amount of Rs.4,80,000/- was given to the applicant but even then, he used to beat her. On 03/06/2020, applicant's daughter came to reside with them. At that time, the applicant told the first informant to do all the work in the house. The first

informant refused and then applicant assaulted her. On that day itself, the applicant gave her talaq. She was left at her parental house. He threatened her that, he would make all the videos and photographs viral. Thereafter, the applicant blocked first informant's phone number. On this basis, the FIR is lodged.

3. Heard Ms. Misbaah Solkar, learned counsel for the applicant, Shri. R.M. Pethe, learned APP for the State and Shri. Adil Khatri, learned counsel for the complainant.

4. Learned counsel for the applicant submitted that, the FIR is based on false allegations. The first informant assaulted two minor daughters of the applicant. The first informant always used to harass them. In July, 2020 also the first informant had assaulted one minor daughter, but at that time, NC was not lodged. Learned counsel for the applicant further submitted that, there were Whatsapp messages sent by the first informant. These messages indicate that, she had no grievance against the applicant. She submitted that, if the allegations of unnatural sex were true, then such messages could not have been sent to the applicant. She submitted that, the applicant is in a much better financial position

than the first informant, therefore it was highly improbable that, the first informant would have paid money to the applicant. She submits that custodial interrogation of the applicant is not necessary.

5. On the other hand, learned counsel for the complainant, whom I heard in consonance with Section 3 and 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 submitted that, the averments in the FIR are absolutely true. As far as the incident of March, 2020 is concerned, the first informant had lodged report at the same police station. Even thereafter she continued residing with the applicant because she wanted to save her marriage. Triple talaq was given by the applicant. This is an offence under the said Act. Learned counsel for the complainant submitted that, the complainant is being threatened by one powerful person who was known to the applicant and thus there is obvious effort to pressurise the victim. He submitted that, considering the serious allegations in the FIR, anticipatory bail could not be granted to the applicant.

6. Learned APP produced before me the statement of a

witness who has stated that, said triple talaq was not given. Apart from that, he did not advance any other arguments.

7. I have considered the submissions. Section 7 (c) of The Muslim Women (Protection of Rights on Marriage) Act, 2019 reads thus ;

“no person accused of an offence punishable under this Act shall be released on bail unless the Magistrate, on an application filed by the accused and after hearing the married Muslim woman upon whom talaq is pronounced, is satisfied that there are reasonable grounds for granting bail to such person”.

8. In this particular case, I found no reasonable ground for granting anticipatory bail to the present applicant. The allegations in the FIR are quite serious. Learned counsel for the applicant contended that, the first informant was harassing his minor daughters. The applicant protected them from the informant and therefore this false FIR was lodged. This is the defence which can be established during trial. The contention of

the learned counsel for the informant that she endured all this harassment over some period to save her marriage is also not improbable. Considering the gravity of the allegations, the applicant does not deserve protection of anticipatory bail. The applicant left her at her parental house. Her number was blocked by the applicant. This lends corroboration to the allegations that, he had divorced informant illegally in violation of the provisions of The Muslim Women (Protection of Rights on Marriage) Act, 2019. There are serious allegations of inserting rod in her private parts. There are allegations that, indecent photos and videos were recorded. This requires custodial interrogation of the applicant. In this view of the matter, anticipatory bail to the applicant cannot be granted. Hence, the following order :

ORDER

- (i) Application stands rejected and is disposed of accordingly.
- (ii) At this stage, when I pronounced this order, learned counsel for the applicant prayed that, the interim protection granted to the applicant

earlier be extended by a further period of two weeks. Once I have reached the conclusion that anticipatory bail cannot be granted since the offence is very serious, I see no reason to extend the interim protection granted to the applicant by the earlier orders. The request is rejected.

(SARANG V. KOTWAL, J.)