

Shvetali Devendranath Agrawal vs State Of Maharashtra And Anr on 16 June, 2023

Author: Amit Borkar

Bench: Amit Borkar

2023:BHC-AS:16033

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VRJ

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1754 OF 2022

Shvetali Devendranath Agrawal	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

WITH
INTERIM APPLICATION NO.2371 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.1754 OF 2022

Kusumdevi Ravindrananth Agrawal	... Applicant
In the matter between	
Shvetali Agrawal	... Applicant
V/s.	
The State of Maharashtra	... Respondent

WITH
INTERIM APPLICATION NO.3366 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.1754 OF 2022

Kusumdevi Ravindranath Agrawal	... Applicant
In the matter between	
Shvetali Devendranath Agrawal	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Ms. Mrunmai Kulkarni for the applicant in
ABA/1754/2022.
Mr. Manoj Singh for the applicant in IA/3366/2022.
Mr. Ghanshyam Upadhyay i/by Law Juris for the
intervener.
Ms. Rutuja Ambekar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 16, 2023

P.C. :

1. Interim Application No.3366 of 2022 seeking intervention in the anticipatory bail application is allowed.

2. Apprehending arrest in connection with C.R. No.246 of 2020 registered with Wakad Police Station, Pune under section 406 of the Indian Penal Code, 1860, the applicant daughter-in-law has approached this Court for relief under section 438 of the Criminal Procedure Code, 1973.

3. On 20th March 2020, first information report came to be registered at the instance of mother-in-law (Intervener), alleging that in the month of December 2019 the applicant left his matrimonial home. Prior to that she had taken all the gold ornaments which were kept in the locker of Bank of Maharashtra, Branch at Wakad, Pune. The locker was in the name of the applicant and her husband (son of the informant). The informant handed over the ornaments to her son and applicant jointly for securing it. According to the report, when the husband visited the bank, it was revealed that the ornaments were missing. The applicant, therefore, filed an application under section 438 of the Criminal Procedure Code, 1973, after B Summary report was not accepted by the Magistrate. The applicant, therefore, approached the learned Sessions Court under section 438 of the Criminal Procedure Code, 1973. The learned Sessions Court rejected the application by order dated 8th July 2020. Aggrieved thereby, the 20-aba1754-2022.doc applicant has filed present anticipatory bail application.

4. This Court by order dated 30th June 2022, granted interim protection and directed the applicant to cooperate with the investigation. There is no material on record to show that the applicant has not cooperated with the investigation.

5. During pendency of the application, the mother-in-law filed intervention application. Therefore, I have heard the learned advocate for the intervener and the learned APP for the State.

6. Learned advocate for the applicant submitted that lodging of report is a counterblast to the complaint filed by the applicant under section 498(A), 406 read with section 34 of the Indian Penal Code, 1860 and proceedings under the Protection of Women from Domestic Violence Act, 2005 (hereafter, D.V. Act, for short). Report has been filed to compel the applicant to withdraw her

allegations made before the Women Cell in a petition under the provisions of the D.V. Act. She invited my attention to interim order passed by this Court on 24th July 2020, arising out of same first information report. This Court had protected the applicant but due to submission of B Summary report by the investigating agency, the earlier anticipatory bail application was disposed of. She, therefore, submitted that the custodial interrogation of the applicant is not necessary.

7. Per contra, learned advocate for the intervener invited my attention to the F.I.R. lodged by the applicant, proceedings under the D.V. Act and other proceedings contending that before lodging of report by the informant, the applicant had never contended that 20-aba1754-2022.doc the mother-in-law had not entrusted the ornaments in question in her custody. He submitted that the applicant had made a false statement in the anticipatory bail application that she never operated the account and, therefore, she is not entitled to discretionary relief under section 438 of the Criminal Procedure Code, 1973. He submitted that the applicant has more than 95 receipts to indicate ownership of the ornaments.

8. Learned APP for the State submitted that the applicant was the person who had access to locker as the key was with the applicant. She submitted that the applicant used to visit the bank for the purpose of operating bank locker, therefore, custodial interrogation of the applicant is necessary.

9. I have perused the case diary, compilation of documents submitted by the intervener and other material produced on record by the parties. It is pertinent to note that the applicant had filed proceedings under the D.V. Act and the first information report against her husband (son of the informant). It further needs to be noted that as per the allegation in the first information report, ornaments were entrusted jointly with husband of the applicant and the applicant. It further needs to be noted that in the very report, the investigating agency had filed B Summary report which was rejected by the learned Magistrate. The husband has filed an application for restitution of conjugal rights against the applicant before registration of the first information report. This Court initially protected the applicant by interim order dated 24 th July 2020 in Anticipatory Bail Application No.119 of 2020, 20-aba1754-2022.doc which was subsequently disposed of and, thereafter, has protected the applicant by interim order dated 30th June 2022. There is no material on record to show that the applicant has not cooperated with the investigation. Therefore, in my opinion, applicant's custodial interrogation is not necessary. Hence, following order:

a) In the event of arrest of applicant in connection with C.R. No.246 of 2020 registered with Wakad Police Station, Pune under section 406 of the Indian Penal Code, 1860, he shall be released on bail on furnishing PR Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;

b) The applicant shall remain present before the investigating officer concerned on 19th, 21st and 23rd June 2023 between 11:00 a.m. to 02:00 p.m., and, thereafter, as and when called by the concerned investigating officer.

c) The applicant shall cooperate with the investigation and make himself available for interrogation whenever required;

d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

e) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

f) The applicant shall, at the time of execution of the 20-aba1754-2022.doc bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

10. In view of disposal of the anticipatory bail application, nothing remains to be adjudicated in the Interim Application No.2371 of 2022. The same is disposed of.

(AMIT BORKAR, J.)