

Mohd Suhail vs The State Of Maharashtra on 1 October, 2018

Author: Prakash D. Naik

Bench: Prakash D. Naik

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2018 OF 2018

Mohd. Suhail, Age 25 years,
Occ.Student, R/o.Madafor Pur Mode,
Near Dr.A.K.Singh Clinic,
Ramapur Kohandaur Bazar, Pratapgarh,
Uttar Pradesh-230 401.

versus

The State of Maharashtra

Mr.Sudeep Pasbola with Bhavesh Takur and Karl Rustomkha
Rahul Arote for applicant.

Mr.Fair Merchant with Mahesh Ahire I/by Riz
Associates for intervenor.

Ms.A.A.Takalkar, APP, for State.

Mr.T.A.Sayyed, PSI, RAK Marg Police Station, present.

CORAM : PRAKAS

DATE : 1st Octo

PC :

1. This is an application for anticipa
2018 registered with R.A.K.Marg Police Station for off
Sections 498-A, 420, 406, 323, 504, 506(ii) of Indian P
and Sections 3 and 4 of Dowry Prohibition Act, 1961.

2. The applicant preferred an applicatio
which was rejected by Sessions Court by order dated 15
2018. The FIR was lodged on 4th August
between the parties was solemnized on 26 th December 2
applicant is the husband of complainant. In the FIR t
had impleaded several other family members

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accused. The other accused had been granted anticipatory bail by Sessions Court except the mother of applicant. The FIR refers to the allegation of harassment, demand of dowry and alleged threat of administering phenyl to the complainant. It is the prosecution case that the applicant was only interested in dowry and residential premises. It is alleged that Stridhan of the complainant has been misappropriated by the accused.

3. Learned counsel for applicant submitted that the allegations are false and concocted. On 19 th May 2018 the complainant had left the matrimonial home. There were earlier attempts to resolve the dispute. On 19th May 2018 the family members of applicant were assaulted by relatives of complainant and NC in that regard has been lodged with concerned police station. It is further submitted that possession of the flat is being handed over to the complainant. It is submitted that articles belonging to the complainant were lying in the locker in the house which could be operated by thumb impression of complainant.

4. Learned APP submitted that the FIR clearly makes out the offence of cruelty u/s 498A of IPC and also Sections 406 and 323 of IPC. The accused had also demanded dowry and committed offence under Dowry Prohibition Act. The Stridhan and other articles are yet to be recovered. Therefore, custodial interrogation of the applicant is necessary.

5. The advocate for intervenor submits that the applicant and other accused are involved in serious crime. The details of harassment meted out to the applicant is reflected in the FIR. The

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sole intention of the applicant to marry the complainant is to demand dowry and to obtain the flat premises as he had no residence in Mumbai. The fact that keys of the flat were handed over to the applicant is reflected in the video recording. It is submitted that there was an attempt to kill the complainant by administering phenyl to her. It is, thus, submitted that ornaments of the complainant and other articles are misappropriated by the accused.

6. Perused the FIR and other documents annexed to this application. The dispute relates to matrimonial discord between the parties. The marriage was solemnized on 26th December 2016. Admittedly in May-2018 the complainant has left the matrimonial home. The FIR was lodged on 4 th August 2018. Several other members of the family are also implicated as accused. Other persons who have applied for anticipatory bail application have been granted bail by Sessions Court. The allegations of harassment and cruelty were attributed to all the accused. In the FIR it is alleged that the accused were intending to administer phenyl to the complainant. However, it cannot be said that the charge of Section 307 is made out in this case. The FIR does not indicate that there was a charge of administering phenyl to the complainant. Taking into consideration the aforesaid circumstances, case for grant of interim protection is made out.

7. Hence, I pass following order :

ORDER

(i) In the event of arrest of applicant in connection with CR No.189 of 2018 registered with R.A.K.Marg Police Station, Mumbai, 4 of 4 39.AA.2018.2018.doc the applicant be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one or two more sureties in the like amount;

(ii) The applicant shall report the investigating officer of R.A.K. Marg Police Station once in a week on every Friday between 10 am and 12 noon till next date of hearing.

(iii) Stand over to 22nd October 2018.

(PRAKASH D. NAIK, J.) MST