

Mohsin Kalim Shaikh vs The State Of Maharashtra on 4 August, 2021

Author: Sarang V. Kotwal

Bench: Sarang V. Kotwal

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16.ABA-1815-21.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1815 OF 2021

Mohsin Kalim Shaikh Applicant
Versus
The State of Maharashtra Respondent

Mr. Ammar Nizami, Advocate i/b. Mohammed U. Kazi, for the
Applicant.
Smt. Anamika Malhotra, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 04th AUGUST, 2021

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R.No.582/2021 registered at Mumbra Police Station, District-Thane on 17.6.2021 under sections 323, 352, 498-A, 504, 506 read with 34 of the Indian Penal Code.

2. Heard Mr.Ammar Nizami, learned Counsel for the applicant and Smt. Anamika Malhotra, learned APP for the State.

Deshmane (PS)

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3. The FIR is lodged by the applicant's wife. She has stated that she got married with the applicant on 21.4.2016 and they were residing together with the applicant's family. In the wedding, the informant's parents had given her ornaments and other articles. The applicant's family has sold out those ornaments because they were in need of money for their business. After that, she delivered two daughters. The applicant's family was not happy with the birth of two daughters and, therefore, they started harassing the informant. On one occasion, the applicant allegedly banged her head against a wall. The FIR mentions that the applicant's family did not allow her to speak with her sister and sister's husband. There are allegations in the FIR that the applicant had an affair with a third lady. It is also alleged that the applicant's father was having ill intentions towards the informant. Six months prior to the lodging of the FIR, the informant and her two daughters were driven out of their matrimonial house. But upon settlement they were taken back to reside together. However, the informant called her brother Mazahar Shaikh

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and then started residing with her elder sister and her husband. On this basis, the FIR is lodged.

4. Learned counsel for the applicant submitted that

there was no love affair of the applicant with a third lady, as alleged by the informant. That third lady was only a neighbour and the informant was unnecessarily having suspicion about their relations. That was the root cause of the FIR and allegations.

5. He submitted that the informant has already initiated proceedings under the Protection of Women from Domestic Violence Act against the applicant and his family members. He submitted that other family members of the applicant are granted anticipatory bail.

6. Learned APP submitted that the allegations of harassment are expressed in the FIR itself. The settlement which was arrived at shows that the applicant's family had put unreasonable restrictions on the informant, which itself shows harassment caused to her.

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7. She further submitted that the reason for the harassment was birth of two daughters; and this harassment will fall under the provisions of Section 498A of IPC.

8. I have considered these submissions. Though learned APP's contentions does have substance, the question is whether at this stage the applicant's custodial interrogation is necessary in the background of facts of this case.

9. The other family members of the applicant, against whom similar allegations are made of causing harassment because of birth of daughters, are already granted anticipatory bail. Therefore, to that extent, on the ground of parity, the applicant also deserves similar relief.

10. The other allegations about the applicant's affair with a third lady is still within the realm of suspicion.

11. The informant has already initiated proceedings under the DV Act. The informant is residing separately from the applicant since December, 2020. The FIR is lodged after six months from that date. Therefore, after such a gap,

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custodial interrogation of the applicant in the background of this discussion is not necessary. He can be provided anticipatory bail order.

12. Hence, the following order :

ORDER

(i) In the event of his arrest in connection with C.R.No.582/2021 registered at Mumbra Police Station, District-Thane, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) The applicant shall attend the concerned police station as and when called and shall cooperate with the investigation. In addition, the applicant shall attend the concerned police station once a fortnight till filing of the charge-sheet. PRADIPKUMAR PRADIPKUMAR PRAKASHRAO PRAKASHRAO DESHMANE DESHMANE Date:

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(iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.) Deshmane (PS) 5 of 5