

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3913 OF 2015

Devendra s/o Chunilal Wadile & ors. ..APPLICANTS

VERSUS

The State of Mah. & anr. ..RESPONDENTS

Mr C.R. Deshpande, Advocate for applicants;
Mrs M.A. Deshpande, A.P.P. for respondents no.1 & 2;
Mr N.L. Choudhari, Advocate to assist Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 20th August, 2015

ORAL ORDER :

Heard learned Counsel for the parties.

2. By the present application, the applicants seek pre-arrest bail, in connection with C.R. No.88 of 2015, registered against them at Mohadi Nagar Police Station, Dhule, for offences punishable under sections 498-A, 307, 504, 506 read with sec. 34 of the Indian Penal Code.

3. Learned Counsel appearing on behalf of the applicants submits that all the members of the family of the applicant no.1-husband are impleaded as accused for offences punishable under sections 498-A, 307, 504, 506 read with sec. 34 of the Indian Penal Code, pursuant to the complaint

lodged by Madhuri Devendra Wadile, the wife of applicant no.1 Devendra.

4. It is the case of the applicants that after the marriage, in view of the higher educational qualifications of the complainant, she was not interested in residing in joint family with the applicants and as such, lodged false complaint. Learned Counsel appearing on behalf of the applicants would urge that perusal of the first information report would reflect that till 5th July, 2015, the complainant was staying along with her parents at her parental house and the allegation of demand and attempt to murder are completely concocted and incorrect story. He has invited attention of this Court to the medical treatment given to the complainant, in addition to the fact that on the date and time of the incident, applicant no.1 was on treasury and lock-up guard duty, as is certified by the Police Inspector of the concerned police station.

5. Learned Addl. Public Prosecutor has opposed the application on the ground that from the spot panchnama, a bottle containing poison was seized along with the clothes of the complainant, which were sent for chemical analysis. According to him, prima facie evidence is available against the applicants as the maternal uncle and his accomplice have stated about happening of the incident in question and presence of the complainant at the spot, which is near Residency Park Hotel.

6. Mr Choudhari, learned Counsel appearing on behalf of the complainant would urge that the pendency of matrimonial proceedings is not in dispute, however, the medical evidence is sought to be placed and relied upon, so as to make out an additional ground for divorce. Apart therefrom, Mr Choudhari would urge that there is prima facie evidence available against the applicants and, therefore, the application is liable to be rejected.

7. Having considered the submissions made by the respective Counsel, it is noted that the complainant claims that she got married on 24th May, 2014 to applicant no.1 Devendra. Applicant no.2 Sarala is her mother-in-law, applicant no.3 Vaishali is her sister-in-law and applicant no.4 Bhushan is husband of Vaishali, i.e. sister of applicant no.1 Devendra. Applicant no.5 Nilesh is real brother of applicant no.1 Devendra. The role attributed in the first information report is that the applicants were pressurizing the complainant to bring cash of Rs.2,00,000/- for purchase of a plot from her uncle.

8. Perusal of the first information report reflects that till 5th July, 2015, the complainant was residing at her parental house and upon information by one Kishor Dayaram Phulpagare, who claimed to be a relative of the applicants, she all alone had left her parental house for meeting all the applicants near Hotel Residency Park and then boarded the vehicle of the

applicants, in which the applicants have tried to administer poison to her.

9. If the above referred story/accusations, as narrated in the first information report are considered, prima facie those appear to be unbelievable, in the above referred factual background. Apart therefrom, the fact remains that on the date and time of the incident, applicant no.1 Devendra is certified to be on duty, as is apparent from the certificate issued by the Police Inspector of Akkalkuwa police station.

Entire family of applicant no.1 is impleaded as accused.

10. In view of above, in my opinion, it will be appropriate to order release of the present applicants, in the event of their arrest. I, therefore, pass the following order :-

Applicant no.1 Devendra s/o Chunilal Wadile, applicant no.2 Sarlabai Chunilal Wadile, applicant no.3 Vaishali Bhushan Lade, applicant no.4 Bhushan Bajirao Lade and applicant no.5 Nilesh s/o Chunilal Lade, be released on bail in the event of their arrest, in connection with C.R. No.88 of 2015, registered with Mohadi Nagar Police Station, Dhule, on each of them furnishing P.R. Bond of Rs.10,000/- with one surety of like amount, on condition that they shall attend the concerned police station as and when called for by the investigating agency.

(5)

criap3913.15

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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