

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.6049 of 2014

Pradip s/o. Subhash Puri & Anr. .. **Applicants.**

Versus

The State of Maharashtra & Ors. .. **Respondents.**

Shri. Umakant P. Giri, Advocate, for applicants.

Smt. M.A. Deshpande, Additional Public Prosecutor, for
respondent Nos.1 and 2.

Shri. G.N. Chincholkar, Advocate, for respondent No.3.

CORAM: T.V. NALAWADE, J.

DATE : 13th JANUARY 2015

ORDER:

1) The application is filed for the relief of anticipatory bail. Both the sides are heard. Learned counsel Shri. G.N. Chincholkar appearing for respondent No.3 was allowed to assist the learned Additional Public Prosecutor.

2) The application is filed as in RCC No.140/2014 pending in the Court of Judicial Magistrate, First Class, Vaijapur, NBW was issued against both the applicants in a case in which cognizance for offences punishable under

sections 498-A, 313, 314, 34 etc. of the Indian Penal Code is taken. It is a private complaint filed by respondent No.3. She is the wife of applicant No.1. Their marriage took place on 19-12-2011. It is her case that dowry of Rs.70,000/- was given and an amount of more than Rs. Five lakh was spent for the marriage by her parents but the applicants were not satisfied. It is her case that after the marriage, ill-treatment was started to her by saying that sufficient dowry was not given. It is her case that initially demand of Rs.50,000/- was made and that demand was met with by her father. After giving Rs.50,000/- also the applicants were not satisfied. It is her case that applicant No.1 was in need of money for purchasing car as he wanted the car for doing job and so there was demand of Rs. 4 lakh from her parents. It is her case that when her parents could not met with this demand ill-treatment started to her and it was both physical and mental. It is her case that she subsequently realised that the applicant No.1 was not in service but he was doing some business of sand. Thereafter the applicant No.1 disclosed that he was in love with one lady and he had relations with that lady and he wanted to marry with

that lady and on that count also ill-treatment was given to her. It is her case that when she became pregnant and when she was carrying of more than six weeks, applicant No.1 gave her some pills when she complained of headache. It is her case that due to this pills, she suffered abortion. It is her case that the applicant No.1 caused her abortion and even after the abortion the applicant No.1 did not give up the demand of Rs.4 lakhs. It is her case that she approached the police but police did not take cognizance and therefore she filed private complaint on 6-5-2014 before the Judicial Magistrate.

3) The submissions made show that after issuing summons the applicants did not appear then warrant came to be issued.

4) Learned counsel for the applicants submitted that private complaint bearing Criminal Case No.127/2013 was filed by the applicant No.1 against relatives of the complainant under sections 323, 504 etc. of the Indian Penal Code and only to give counter blast to this private case, the present complaint is filed by the wife of the applicant No.1.

5) The aforesaid record and circumstances show that protection can be given to applicant No.2, father of applicant No.1. The aforesaid circumstances show that main allegations are against husband and there are serious allegations of causing abortion. When the Court issues warrant the Court like the present Court is expected to presume that there is application of judicial mind and the Court is not expected to lightly grant relief of anticipatory bail. In view of the allegations made against the husband, this Court holds that it is not a fit case to grant relief of anticipatory bail in favour of husband. There is no question of consideration of requirement of interrogation or arrest by police for the purpose of interrogation as NBW is issued against the husband. But in view of the aforesaid circumstances, he needs to be arrested. Further course of action will be decided by the Judicial Magistrate. The case will have to be committed to the Court of Sessions after proper procedure is followed by the Judicial Magistrate already. At present there is no record of that kind.

6) In the result the application of applicant No.1 is rejected. Interim relief granted in favour of applicant No.1 is vacated. The application of applicant No.2 is allowed. In the aforesaid case the applicant No.2 is to surrender before the Judicial Magistrate. He is to be released on bail on his furnishing PR and SB of Rs.15000/-. He is not to tamper with prosecution witnesses. He is not to commit similar offences.

Sd/-
(T.V. NALAWADE, J.)

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