

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

CRIMINAL APPLICATION NO. 5694 OF 2015

BALASAHEB S/O MOHAN JAGTAP
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Rahul R. Karpe.
APP for Respondent : Mr. S. J. Salgare.
Advocate to assist PP : Mr. S. J. Salunke.

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CORAM : **INDIRA K. JAIN, J.**

DATE : 02nd December, 2015.

ORAL ORDER:

. This is an application for pre-arrest bail in Crime No.91 of 2015 registered at Majalgaon (City) Police Station, Taluka Majalgaon, District Beed for the offences punishable under Sections 366 and 506 read with 34 of the Indian Penal Code.

2 Heard Mr. Rahul R. Karpe, learned counsel for Applicant and Mr. S. J. Salgare, learned APP for State. Perused case papers.

3 Prosecution case in brief is as under:

On 19th September, 2015 Complainant Kalyani daughter of Haribhau Naiknaware lodged report with the Police Station

alleging therein that on 12th August, 2015 Applicant Balasaheb Mohan Jagtap forcibly taken her away, threatened her and performed marriage against her will. She stated that she does not accept the marriage with Applicant Balasaheb Mohan Jagtap. According to Complainant she was threatened by Applicant to her life and therefore she could not disclose the incident immediately.

4 Learned counsel for Applicant submitted that there was love affair between Complainant and Applicant and marriage was performed with the consent of Complainant in a temple which was registered before the competent authority. It is submitted that Complainant was pressurized by her relatives and she falsely implicated the Applicant.

5 Per contra learned APP submitted that statements of witnesses are yet to be recorded, custodial interrogation of Applicant is necessary and looking to the *modus operandi* of Applicant his release on anticipatory bail would cause hindrance in smooth investigation.

6 It can be seen from the case papers that certificate of marriage was issued by the Marriage Officer and Notary. This certificate is signed by the witnesses and parties. During investigation

statement of Prabhakar Bhanudas Gurav Poojari of the temple came to be recorded. It shows that marriage was performed by consent of Applicant and Complainant. FIR was lodged after 37 days of incident. Applicant had also reported to the police authority regarding illegal detention of his wife i.e. Complainant.

7 In this background stand taken by the Applicant that under the pressure of her relatives Complainant had lodged report cannot be said to be without substance. This Court is thus inclined to allow the application. Hence the following order –

ORDER

- I. Criminal Application No.5694 of 2015 is allowed.
- II. Interim protection granted vide order dated 21st October, 2015 is confirmed.
- III. In the event of arrest of Applicant Balasaheb Mohan Jagtap in Crime No.91 of 2015 registered at Majalgaon (City) Police Station, Taluka Majalgaon, District Beed for the offences punishable under

Sections 366 and 506 read with 34 of the Indian Penal Code, he shall be released on P.R. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand Only) each.

- IV. He shall not tamper with the prosecution evidence and shall make himself available as and when required by the Investigating Agency.

[INDIRA K. JAIN, J.]

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