

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.920 OF 2015

Imam Mahiboob Shaikh and Others ... Applicants
vs.
The State of Maharashtra ... Respondent

Mr. Jaydeep Mane, for the Applicants.
Mr. Arfan Sait, APP for Respondent – State.
IO. Mr. S.L. Bhosale (API), Vijapur Naka police station present.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JULY 22, 2015

P.C.:

. The application is moved for pre arrest bail as the applicants/accused are facing charges for the offences punishable under Sections 498(A), 327, 323, 504 and 506 read with 34 of the Indian Penal Code in C.R. No. 143 of 2015 registered with Vijapur Naka police station, Solapur. The applicants/accused No. 1 and 2 are in laws of the victim Nilofer and applicant/accused No. 3 is brother in law and No. 4 is the wife of the brother in law of the victim Nilofer. The offence is also registered against the husband Shadab, however he is absconding.

2. It is the case of the prosecution that Nilofer got married on 7th April, 2011 with Shadab Shaikh. She started residing with the husband at Goa. In their marriage the gold ornaments were given by her parents to the applicants/accused. It is the case of Nilofer that merely for one month after marriage, the applicants treated her well. However, thereafter there was continuous demand of money from her in laws and her husband. She was subjected to cruelty on the ground of money. She was not given food though she was pregnant. In the month of December, 2011 she delivered a still born baby. Thereafter, also the applicants/accused harassed her continuously on various grounds especially on the ground of demand of money from her parents. It is the case of prosecution that due to such harassment, the parents of Nilofer went on satisfying the monetary demands of her in laws and her husband from time to time. In the month of November, 2012 she delivered second time a baby girl. However, she was dark in complexion. On that count also Nilofer was tortured. Therefore, in January, 2013 the father of Nilofer handed over Rs. 2 lacs to Shadab and the in laws of Nilofer. In the month of March, 2015 the in laws along with absconding accused Shadab went to the house of the complainant and demanded Talaq. At that time, they took away all

the ornaments which were on the person of Nilofer. They also assaulted the parents of Nilofer. Therefore, Nilofer gave complaint on 11th May, 2015.

3. The learned counsel for the applicants/accused has submitted that the charges levelled against the applicants/accused are false. They have not committed any offence much less the offence under Sections 498(A) and 327 of the Indian Penal Code. It is submitted that accused No. 3 Shoharat Shaikh is a Government servant and he is falsely implicated in this case. In fact the applicants No. 3 Shoharat and No. 4 Nikat were residing separately and they have not committed any offence. He further submitted that applicants No. 1 and 2 are old aged persons. They are innocent and the allegations of taking away gold ornaments are false and baseless.

4. The learned prosecutor opposed the application. He relied on the statements of the father and mother of Nilofer. He further submitted that the list of gold ornaments which were snatched from the person of Nilofer is produced herewith. The husband Shadab is still absconding. Therefore the pre arrest bail not to be granted.

5. Perused the first information report and the statements of witnesses, especially statement of the mother of Nilofer. It appears *prima facie* that there was continuous harassment at the hands of the applicants/accused and absconding accused Shadab to Nilofer. The incidents of harassment and demand of money and also of sending money to the applicants/accused are specifically mentioned in the complaint. The incident of March, 2015 has taken place at Solapur when the applicants/accused had visited the house of the complainant and took away her ornaments and demanded Talaq. *Prima facie* it appears that there is some evidence against the applicants/accused. However, applicants/accused No. 3 and 4, as mentioned by the learned counsel, were residing separately and applicant/accused No. 3 Shoharat Shaikh being a Government servant, the applicant/accused No. 2 being a lady aged 65 years, I am inclined to grant pre arrest bail to them. However, the application in respect of applicant/accused No. 1 is rejected.

6. In view of the above, I pass the following order:

- a) In the event of arrest, applicants/accused No. 2, 3 and 4 be enlarged on bail upon furnishing P. R. Bond in the sum of

Rs. 20,000/-(Twenty Thousand) each with one or two solvent surety/s in the like amount;

b) They shall cooperate with the investigating officer and the applicants/accused No. 2 and 3 shall attend the concerned police station on two days i.e. on 26th July, 2015 and 2nd August, 2015 in between 11 am to 1 pm.

c) The applicant/accused No. 4 Nikat need not attend the police station considering her physical condition.

d) The applicants/accused shall not indulge in any other criminal activity or pressurize the complainant and her parents.

e) The pre arrest bail in respect of applicant/accused No. 1 Imam Shaikh is rejected.

7. Anticipatory bail application stands disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)