

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.940 OF 2015

Shri Latif Sayyad Naikawadi & anr. ... Applicants

Vs.

The State of Maharashtra ... Respondent

a/w

ANTICIPATORY BAIL APPLICATION NO.942 OF 2015

Shri Sayyad Naruddin Naikawadi & anr. ... Applicants

Vs.

The State of Maharashtra ... Respondent

Mr.P.M. Arjunwadkar for the Applicants
Mr.D.P. Adsule, APP, for Respondent – State in ABA/940/2015
Mr.Arfa Sait, APP, for State in ABA/942/2015

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JULY 3, 2015

P.C.:

1. These are the applications for pre-arrest bail in relation to C.R. No.56 of 2015 registered with the Shahapur-Ichalkaranji police station for the offences punishable under sections 307, 498A, 323, 504 r/w 34 of the Indian Penal Code. The Complainant one Ms.Taskim Rafiq Naikwadi, is the daughter in law of the applicants in Anticipatory Bail Application No.942 of 2015 and sister in law of the applicants/accused in Anticipatory

Bail Application No.940 of 2015. It is her case that on 30.6.2015 she was at home when the applicants/accused alongwith her husband demanded from her to bring money from her maiden home for the purpose of construction of house and for construction of a grocery shop. When she expressed her inability to bring the money, her husband, accused No.1, and her in-laws, started assaulting her. At that time, her two brothers-in-law, who are the applicants/accused in Anticipatory Bail Application No.940 of 2015, held her hands and legs and they pressed her mouth and the husband tried to strangle her with a wire of the fridge in the home. She tried to rescue herself and at that time, her husband stabbed her on her stomach and also on the left thigh. She left the house with her son and went to her neighbour's house. Then, immediately, she went to her maiden home at Kolhapur. Then, she gave the complaint and thereafter got admitted in a hospital.

2. The learned Counsel for the applicants/accused submitted that the applicants/accused Latif Naikawadi is a medical representative and at the time of the incident, he was not present in the house. He further submitted that the Ijaz Naikwadi was also not present in the house. Their implication by the complainant is false. It was Rafiq, who stabbed her in her stomach. He further submitted that though assuming that the complainant was stabbed, she did not go to hospital but she went to her maiden home and thereafter gave her complaint. The injuries are simple

in nature. He also submitted that the father-in-law and mother-in-law who have moved the Anticipatory Bail Application No.942 of 2015, are aged 55 and 58 years old. Accused No.1 is working as a accountant in a sugar factory. Hence, he prayed that the applicants/accused be granted pre-arrest bail.

3. Both the learned Prosecutors appearing for the State have opposed the applications. They relied on the order passed by the learned additional Sessions Judge, Ichalkaranji dated 23.6.2015. They submitted that before the learned Sessions Judge, the injury certificate was pointed out and it was observed by the learned Judge that the MLC on record showed that the complainant has sustained incised wounds caused by sharp edged weapon alongwith other abrasions. It prima facie discloses the involvement of the applicants.

4. Perused FIR, the impugned order as also the injury certificate. The learned Judge has rightly observed that the defence of alibi will be an important aspect. However, at this stage, the defence of alibi cannot be considered. After going through the FIR, it appears prima facie that the applicants/accused are involved in the offence. However, considering the age of the applicants/accused in Anticipatory Bail Application No.942 of 2015 i.e., the father-in-law and the mother-in-law and they did not press her mouth and held the legs and hands as specific role is attributed to her

brothers-in-law, I am inclined to grant pre-arrest bail to mother-in-law and the father-in-law and not to the brothers-in-law. Accordingly, Anticipatory Bail Application No.940 of 2015 is rejected. Anticipatory Bail Application No.942 of 2015 is allowed on the following terms and conditions:

- i) In the event of arrest, the applicants/accused Shri Sayyad Naruddin Naikawadi and Smt.Vahida Sayyad Naikawadi shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/- each, with one or two sureties in the like amount;
- ii) The applicants shall not tamper with the evidence;
- iii) The applicants shall not indulge into any kind of offence while on bail;
- iv) The applicant shall cooperate with the Investigating Officer and attend the concerned police station on every Saturday, between 10 am to 12 noon, till filing of chargesheet.

(MRS.MRIDULA BHATKAR, J.)