

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAILAPPLICATION NO. 1283 OF 2014

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| 1. | Muktar A. Karim Naik |) | |
| 2. | A. Karim Imam Naik |) | |
| 3. | Mrs. Nurjahan K. Karim Naik |) | Applicants |
| | vs. | | |
| 1. | The State of Maharashtra |) | |
| 2. | Smt. Farzana Mukhthar Ahmed Naik |) | Respondents |

Mr. V.V.Purwant a/w Mr. Sachin Deokar, Advocate for the applicants
Mr. Veera Shinde, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 3rd March, 2015.

P.C.

Heard. This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No.213 of 2014 registered at Vijapur Naka Police Station, Solapur, for the offences punishable under Sections 498A, 323, 504, 506, 307 read with Section 34 of IPC.

2. At the outset, the learned counsel for the applicants fairly submits that he would not press for the application filed on behalf of applicant No.1 and that the applicant No.1 would surrender before Vijapur Naka Police Station by 5 p.m. of 13.3.2015. Hence, the application filed by applicant No.1 is dismissed as withdrawn.

3. It is the case of the prosecution that on 22.8.2014, Farzana wife of applicant No.1 filed a report at the police station alleging therein that she has got married to applicant No.1 on 15.5.2003. The couple is blessed with two sons. According to her, she was being harassed and ill-treated in her matrimonial home. That applicant No.1 demanded dowry from her for the continuation of marriage and had ill-treated her. She has further alleged that on 19.8.2014, when she was preparing food in the kitchen, applicant No.3 i.e. her mother-in-law told her that the house belongs to her and that she would not allow the first informant to cook in the said house. Upon saying so, according to the complainant, her mother-in-law had poured kerosene on her. That they had attempted to set her ablaze. However, she rescued herself and rushed to her brothers. She has taken treatment in the hospital for the burn injuries. The medical certificate does not indicate that she had sustained burn injuries. It appears that kerosene was thrown on her. The nature of injury is all over the body and the injuries are described as simple injuries.

4. The learned counsel for the applicants submits that in fact the complainant wanted the residential house to be transferred in her own name and that, according to the learned counsel, is apparent from the recitals of the FIR. In

the FIR also she has stated that the mother-in-law was insisting that the house stands in her name.

5. The learned counsel for the applicants, upon instructions, had submitted that applicant No.1 wanted to have an amicable settlement with the complainant and clear off misunderstanding. In view of this, notice was issued to the complainant.

6. The learned APP, upon instructions from the I.O., submits that the P.I. of Vijapur Naka Police station had been to the house of her brother. He had informed the police that she is staying at Gulbarga and that her address is not known. Needless to say, it is clear that the complainant does not wish to have amicable settlement. The learned APP submits that on the earlier two occasions also the complainant had filed N.Cs against her husband and they were amicably settled. In all probabilities, in view of this, the complainant does not again wish to have an amicable settlement.

7. The learned counsel for the applicant submits that applicant Nos. 2 and 3 are not only senior citizens, but are old and infirm. According to the learned counsel, there is an attempt to falsely implicate all the members of the family. Hence, he prays for pre-arrest bail for applicant Nos. 2 and 3.

8. Upon perusal of papers of investigation, it appears that the accused

have co-operated with the investigating agency. However, taking into consideration the seriousness of the allegations against the husband, this Court is inclined to protect the applicant Nos. 2 and 3.

9. The observations made hereinabove are prima facie in nature and the Sessions Court shall not be influenced by the same while deciding application for quashing of FIR, discharge application or at the time of trial.

ORDER

(i) The application is applicant Nos. 2 and 3 is allowed. In the event of their arrest, the applicant Nos. 2 and 3 be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

(ii) The applicant Nos. 2 and 3 shall report to the concerned police station as and when called.

(iii) The application filed by applicant No.1 is dismissed as withdrawn. However, upon surrendering and filing an application under Section 439 of Cr.P.C., the learned Sessions Judge shall not be influenced by the withdrawal of this application and shall consider the application on its own merits, including the fact that the applicant No. 1 has co-operated with the investigating agency.

Application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)