

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [ABA] No.73 of 2015

(Yuvraj Nitin Gosavi and others

vs.

The State of Maharashtra, through Sr. Police Inspector, Lonar Police Station, Buldhana)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

Mr. N.B. Sawant, Advocate for the Applicants.

Mr. S.M. Ghodeswar, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : MARCH 3, 2015.

Heard the learned Counsel for the applicants.

Before going through the other details and merits of the application, it will not be out of place to refer to the order passed by this Court while issuing notice to the non-applicant/State granting *ad interim* protection to the applicants. This Court on 17th February, 2015 a query made to the learned Counsel for the applicants that whether the applicants had approached the learned Sessions Judge seeking the relief in the nature of pre-arrest bail, the learned Counsel submitted that the applicants are residents of Thane District and in stead of approaching the learned Sessions Judge, they preferred to approach this Court.

The applicants are before this Court apprehending their arrest in Crime No.219/2014, registered at Lonar Police

Station, District Buldana for the offences punishable under Sections 498-A read with Section 34 of the Indian Penal Code.

It was the submission of the learned Counsel for the applicants that, the report lodged at the instance of wife of applicant no.1-Yuvraj is nothing but a far-fetched unbelievable story just to counter blast a report lodged by the husband, which is prior in point of time. The learned Counsel further submits that the complainant/informant selected an opportune place to suit her purpose with an intention and vindictive approach to harass the applicants. The learned Counsel also made submission to the effect that the applicant nos.2 and 3 are old aged parents of applicant no.1, and applicant no.2 requires medical assistance. The learned Counsel further made a submission that the report is a belated report, as the allegations of ill-treatment are of the year 2013, whereas the report is lodged in the year 2014. Thus, the learned Counsel prays for confirmation of the *ad interim* protection granted to the applicants.

The learned A.P.P. vehemently opposes the application. The learned A.P.P. also made available the material collected. He submits that the investigation is at preliminary stage and even though it is a preliminary stage, the material collected so far itself reflects sufficient material in support of the report lodged at the instance of wife-Sayali.

On the rival contention of the learned Counsel appearing for the parties, I have gone through the material placed on record as well as the material collected by the investigating agency made available for my perusal. Perusal of the report lodged at the instance of the wife shows that the marital life between the spouses hardly of a year and half. The marriage was solemnized sometime in the month of May, 2013. It is stated in the report that the informant/complainant was treated well for hardly a period of three months and thereafter the husband and father-in-law under the influence of liquor were abusing the informant/complainant. She further states that it was not only the verbal attack, but she was subjected to physical attack, namely the husband used to beat her with waist belt, a demand was made of an amount of Rs.5,00,000/- whenever she used to make a phone call to the parents and on finding that there is no positive compliance of the demand, she was again subjected to the physical ill-treatment. It is stated in the report that the applicants are carrying a gun. On 30/11/2013, the complainant refers to the incident of abuses and snatching of the gold ornaments. She then states that she was not provided meal and when her father visited her, the matrimonial relations i.e. the applicants, driven her out from her matrimonial home along with her father with a threat of return only with the amount. She then states that an attempt was

made through the Women's Grievances Redressal Cell for settlement. As there was no positive outcome in the nature of any settlement, the complainant left with no choice but to approach the police authority. On receiving the report, the investigating agency proceeded by steps of recording the statement of witnesses. As the investigation is at preliminary stage, it is not necessary to disclose the details of the investigation. Suffice to say that, statements recorded of not only the relatives but other independent witnesses support the statement made in the report. It will not be out of place to mention peculiar incident, which is reflected in the material, of a demand of amount and compliance of the demand through the brother of the victim and in spite of such demand, the ill-treatment was continued.

The learned Counsel for the applicants though vehemently submitted that there is a delay in lodgment of the report, the material presented by the learned A.P.P. clearly shows that after the complainant was driven out from her matrimonial home, she approached the Lonar Police Station and the police authority made an attempt to refer the matter to Women's Grievances Redressal Cell and as there was no positive outcome, the report was lodged. The other submission of the learned Counsel for the applicants is that the report lodged at the instance of the informant/complainant is the counter blast to

the report lodged by the husband. If that material is perused, it shows that the applicant no.1 had approached Kranti Chowk Police Station, Aurangabad with an allegation that his wife was found in compromising condition with some person. The report was treated as non-cognizable report. The approach of the applicant no.1 to the Police Station Aurangabad is a ground taken for prayer of pre-arrest bail. The attempt of the learned Counsel for the applicants was to arrive at a conclusion on the document, namely the non-cognizable report, to treat the report as a gospel truth. Needless to state that such a serious allegation cannot be accepted at the threshold without giving any opportunity of hearing, the party against whom such serious allegations are made. It is the settled position of law that, at the stage of grant of protection in the nature of pre-arrest bail, this Court is not expected to weigh and assess the material. Needless to state, what is to be seen, is the prima facie material. The material presented by the State clearly spells out the supporting facts of the report. Insofar as the ground raised by the learned Counsel for the applicants that the applicant no.2 needs medical assistance, there is no supporting material placed on record and only a statement made in the application. On the contrary, the report and the other material placed on record show the active involvement of the applicant no.2 causing an ill-treatment to the informant/complainant. Insofar as the applicant no.3 is

concerned, who is a lady and is in her advanced age, the allegations against her are of the ill-treatment in general and considering the fact that she may not be in a position to cause any hindrance in the investigation and there cannot be any apprehension that she will not be available for investigating agency for interrogation, in my opinion, the protection can be granted to the applicant no.3. Insofar as the other applicants are concerned, I am of the opinion that no case is made out to grant protection to the applicant nos.1 and 2.

In the result, application of applicant nos.1 and 2 is rejected, where the application of applicant no.3 is allowed with a condition that the applicant no.3 to attend the Lonar Police Station, District Buldhana once in a month till filing of the charge-sheet. The investigating Officer to issue notice to applicant no.3 for her attendance.

The application is disposed of accordingly.

JUDGE

**sdw*