

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

Criminal Application [BA] No.118 of 2015

(Pushpa Shyama Kanojiya and another
vs.

The State of Maharashtra, through P.S.O. Gittikhadan, Nagpur)

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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. A.A. Bobde, Advocate for the Applicants.
Mr. A.H. Laddhad, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : MARCH 17, 2015.

Heard Mr. Bobde, the learned Counsel for the applicants and Mr. Laddhad, the learned A.P.P. for the non-applicant/State.

At the outset, the learned Counsel for the applicant submits that he is not pressing the application in respect of applicant no.2.

The applicant no.1 is the mother-in-law of victim-Kiran. A report was lodged on the backdrop of the statement of Kiran submitting that on 27/10/2014 at about 09:30, the applicant no.1 by asking that the victim failed to comply the demand of Rs.10,00,000/- from her parental home, poisonous substance was administered forcefully. In the report, it is stated that the marriage between Kiran and her husband-Sachin was solemnized on 02/05/2013, and since then there was demand of

an amount of Rs.10,00,000/- as dowry. The victim stated that she has informed her parents about the demand and ill-treatment received by her from her matrimonial relations. In the report, it is stated that her brother-in-law caught hold her and the applicant no.1 administered her poisonous substance.

The learned Counsel for the applicant submits that the applicant no.1 along with other applicant had approached this Court seeking protection in the nature of pre-arrest bail and the prayer was rejected on the ground that the custodial interrogation of the applicants would be must and necessary. The learned Counsel then submits that the process of investigation is now completed. He further submits that the applicant is behind the bars for more than eight months. The learned Counsel then submits that the applicant is facing certain health issues. It is the submission of the learned Counsel that the applicant requires periodical medical assistance and treatment being patient of heart disease. The learned Counsel for the applicant also referred to a certificate issued by the Indira Gandhi Government Medical College and Hospital, Nagpur to the applicant on 25/01/2015. He submits that the applicant was admitted in the hospital on 25/01/2015 and was under treatment for three days. The learned Counsel further submits that in another statement recorded by the investigating agency of the victim, a different version is quoted by the victim. It is the

submission of the learned Counsel for the applicant that the victim was changing circumstances as per her convenience and as such the possibility of element of suspicion over the story cannot be ruled out. The learned Counsel further submits that as all the necessary investigation is completed, no fruitful purpose is going to be served by keeping the applicant behind the bars for further indefinite period. The learned Counsel, therefore, prays for enlargement of the applicant on bail.

Mr. Laddhad, the learned A.P.P. vehemently opposes the application. He submits that at the very first stage of seeking interim protection in the nature of pre-arrest bail, this Court had an occasion to consider the material against the applicant and finding that the material is pointing out the finger against the applicant and this Court was not inclined to protect the applicant. He further submits that the victim was subjected to forcefully administration of poisonous substance and though certain material is collected by the investigating agency, the agency is awaiting for the report in the nature of ascertainment of the poisonous substance from the forensic lab. The learned A.P.P. further submits that considering the act committed by applicant no.1 in the house in day hours, there is every possibility that the applicant, if released, may indulge herself in a similar act.

On these rival submissions of the learned Counsel for the applicant and the learned A.P.P., I have gone through the material placed on record. It is not in dispute that most of the material is collected by the investigating agency. The statements are recorded by the investigating agency. The material, which is placed on record in the form of the medical certificate of applicant no.1, is issued from the Government Medical College and Hospital. It clearly refers that the applicant is a patient of heart disease and was under the treatment for three days in the Government hospital. The certificate further shows that the applicant would require a periodical treatment.

Considering the fact that now the major investigation is complete and the applicant is facing health issue, in my opinion, the applicant can be enlarged on bail. The apprehension of the State can be taken care of by imposing certain conditions upon the applicant and protecting the interest of the victim and the prosecution as well.

The learned Counsel for the applicant, on instructions, submits that the applicant would reside at Gondia, which is a place away from Nagpur more than 150 kms.

In the result, the application is allowed. The applicant no.1-Pushpa Kanojiya be released on bail on her furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty

Thousand Only) with one or two sureties in the like amount on the following conditions.

- i. The applicant to reside at Gondia and shall visit Nagpur in relation to the trial only.
- ii. The applicant shall not tamper with the evidence nor commit any act such as contacting the prosecution witnesses or pressurize them.
- iii. The applicant to submit a name and address of any relative at Gondia with phone/mobile numbers to the Investigating Officer.

In case of any breach of the conditions by the applicant, the State would be at liberty to move this Court.

Needless to say that these are the observations of the Court while deciding the present bail application and the learned Sessions Judge may not be influenced by these observations while conducting the trial.

The application is disposed of as such.

JUDGE

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