

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

**Criminal Application [APPP] No.6 of 2015**

**in**

**Criminal Application [ABA] No.633 of 2014**

*(Pushpa w/o Shyama Kanojiya and others*

*vs.*

*State of Maharashtra, through PSO, Gittikhadan, District 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*

*Mrs. Anjali Joshi, Advocate for the Applicant/Complainant.  
Mr. A.A. Naik, Advocate for the Applicants/Accused.  
Mr. S.M. Ghodeshwar, APP for the Non-Applicant/State.*

**CORAM : PRASANNA B. VARALE, J.**

**DATE : JANUARY 7, 2015.**

Heard Mrs. Joshi, the learned Counsel for the present applicant, who is seeking permission to assist the prosecution.

For the reasons stated in the application, the application is allowed in terms of it's prayer to assist the prosecution.

**Criminal Application [ABA] No.633/2014 :- .**

Heard Mr. Naik, the learned Counsel for the applicants, Mr. Ghodeshwar, the learned A.P.P. for the state and Mrs. Joshi, the learned Counsel for the complainant., who has sought assistance to the prosecution.

The perusal of the F.I.R., a copy of the same is placed on record, reveals that the victim Mrs. Kiran, the

daughter-in-law of applicant no.1 and applicant no.2, wife of applicant no.3 and sister-in-law of applicant no.4., states that on 27/10/2014 at about 09:30 hours, applicant no.1, on account of not giving the amount of Rs.10.00 lakhs as dowry, forcefully made the informant/complainant to consume some poisonous substance through a glass and at that time, applicant no.4 was catching hold the victim. She further states that her husband had already proceeded to his duties at Railway Station, Nagpur. She further states that applicant no.2 was uttering the words "ISE MAR DALO". The report further reveals that the marriage between the victim and applicant no.3 was solemnized sometime in the year 2013. She further states that there was a consistent demand of dowry of Rs.10.00 Lakhs and she was subjected to abuses, assault and physical violence. She concludes her statement saying that, as her parents were not in a position to comply with the demand of dowry, she was subjected to consume poisonous substance and as her health condition is precarious, she is unable to disclose any further details.

The learned Counsel for the applicants submits that the report is nothing but a falsehood and an attempt to implicate all the family members. He further submits that in the report itself, the complainant stated that applicant no.3 left the residence to attend his duties. The learned Counsel invited my attention to certain documents placed on record, namely

Annexure-E collectively. The communication in response to the application of applicant no.3 from the Office of Sr. Divisional Finance Manager, South East Central Railway, Nagpur, dated 27/10/2014, reads that applicant no.3 attended his duties and left the office at about 10:30 hours giving a reason that he is having an urgent work at home. Later on he did not attend the office. The extract of Office Attendance Register is also annexed to the application to show the report against the attendance of the applicant no.3 is that the party is absconding from duty 10:30 a.m. on 27/10/2014. Thus, it was the submission of the learned Counsel for the applicants that applicant no.3 was not at all available in the residence, when the alleged incident took place and he only attended his residence on receiving the information after the incident was over. The learned Counsel then submitted that a supplementary statement is recorded and in the supplementary statement of the complainant, the complainant took a somersault stating that all the family members were present in the house at the relevant time of incident. The submission of the learned Counsel is, this somersault of the complainant itself is an indication of the fact that the story of the complainant is nothing but a falsehood. The learned Counsel for the applicants thus prays for protection in the nature of pre-arrest bail. He further submits that the applicants were protected by an interim order and they have

complied with the interim order including the condition of attending the police station and cooperating with the investigating agency. The submission of the learned Counsel for the applicants is, in such a situation, there is no requirement of custodial interrogation of the applicants.

Mr. Ghodeswar, the learned A.P.P. vehemently opposes the application and submits that in the supplementary statement, the complainant has stated that all the family members were present in the house and they are responsible for the act alleged in the report dated 27/10/2014.

Thus, on the rival submission of the learned Counsel for the parties, I have gone through the material presented before this Court. Insofar as applicant no.3 is concerned, the material *prima facie* shows that the material in the nature of immediate disclosure of the informant/complainant in the report and the certificate issued by the department shows that applicant no.3 left his residence to attend his duties and he attended the office till 10:30 a.m. In the report, the complainant herself is not alleging any act of applicant no.3. Insofar as applicant no.2 is concerned, the allegation in the report is only to the effect that applicant no.3 was making demand of dowry along with other family members and insofar as the incident is concerned, the allegations is in the nature of utterance of words "ISE MAR DALO". The report in clear and unambiguous words

states about the act of applicant no.1, the mother-in-law and applicant no.4, the brother-in-law. The role played by applicant no.1 is the crucial role of forcing the complainant/informant for consumption of poisonous substance, and the role of applicant no.4 of caught holding the complainant facilitated applicant no.1 to complete her act of forcefully administering the poisonous substance to the informant/complainant. Thus, the report itself makes it clear that applicant no.1 and applicant no.4 were the lead players in the act, which is reflected in report dated 27/10/2014. The document placed on record with the application seeking assistance to the prosecution refers to discharge card issued by the Government Medical College and Hospital, Nagpur. The perusal shows that the victim was admitted to the Government Medical Hospital on 27/10/2014 and she was discharged from the hospital on 06/11/2014, which means that for a period of less than two weeks, the victim was admitted in the Government Medical Hospital. The diagnosis refers and reads as "Organophosphorus compound poisoning with respiratory failure conventi". The medical certificate placed on record clearly shows that at least for a week, the victim/complainant was admitted in the Government Hospital. The report states a forceful consumption of poisonous substance. On receiving the report, the investigating agency set in motion to unearth the truth and will have to take exercise of various steps

including seeking assistance of forensic lab or other scientific method. The involvement of applicant nos.1 and 4 is clearly spelt out in the report. It is not the case that the role played by applicant nos.1 and 4 is vague or there can be an element of falsehood, but the report is certain on the aspect of the role played by applicant nos.1 and 4. The medical evidence supports that the victim was subjected to consumption of poisonous substance.

In view of these facts, there is considerable merit in the submission of the learned A.P.P. that the custodial interrogation of the applicants would be necessary. Taking into consideration the above referred facts, I am of the opinion that the learned Counsel for the applicants has made out a case for grant of pre-arrest bail to respondent nos.2 and 3, whereas the application in respect of applicant nos.1 and 4 deserves to be rejected. In the result, the application is partly allowed.

The interim protection granted to applicant nos.2 and 3 is confirmed with the condition that the applicant nos.2 and 3 to attend the Gittikhadan Police Station, Nagpur on every Sunday from 10:00 a.m. to 01:00 p.m. till filing of the charge-sheet. The application of applicant nos.1 and 4 is rejected.

Needless to state that interim protection granted to applicant nos.1 and 4 stands revoked.

**JUDGE**

*\*sdw*