

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Criminal Application No. 2441 of 2016

District : Parbhani

1. Mohd. Shehzad Arif Mosani,
Age : 23 years,
Occupation : Business.
2. Farzana Bano Arif Mosani,
Age : 45 years,
Occupation : Household.
3. Mohd. Raees Mohd. Arif Mosani,
Age : 25 years,
Occupation : Business.
4. Uzma Bano w/o. Raees Mosani,
Age : 23 years,
Occupation : Household.

All /o. Near Ansar Sizing,
behind Apna Super Market,
Agra Road, Malegaon,
District : Nashik.

.. Applicants.

versus

The State of Maharashtra,
(Through Inspector,
Naya Mondha Police Station,
Parbhani, District : Parbhani).

.. Respondent.

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Mr. D.U. Mulla, Advocate, for the applicants.

*Mr. A.S. Shinde, Addl. Public Prosecutor, for
the respondent - State.*

*Mr. G.R. Syed, Advocate, holding for
Mr. A.R. SYed, Advocate, for the original
complainant.*

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CORAM : N.W. SAMBRE, J.

DATE : 13TH JUNE 2016

ORAL ORDER :

Heard.

2. So far as prayer for pre-arrest bail to applicant no.1, namely, Mohd. Shehzad Arif Mosani, the learned Counsel for the applicants, upon instructions, does not press his application. Hence, the Application to the extent of applicant no.1, namely, Mohd. Shehzad Arif Mosani, stands dismissed as not pressed.

3. So far as applicant nos.2, 3 and 4 are concerned, they are seeking pre-arrest bail in connection with Crime No. 80/2016, registered with Naya Mondha Police Station, Parbhani, for offences punishable under Sections 498A, 323, 504, 506, read with Section 34 of the Indian Penal Code.

4. It is claimed in the FIR, that the complainant was married to applicant no.1 on 27th May 2014. According to the prosecution, applicant no.1 was having illicit relations with his brother's wife and that was one of the cause for illtreating the complainant apart from demand of dowry.

5. The learned Counsel for the applicant would submit that there is unexplained delay in lodging the FIR and the custodial interrogation of applicant nos.2, 3 and 4 is not necessary. He would submit that the applicants are very much available for investigation. It is then claimed that all the applicants who are implicated as accused are family members and there is false implication.

6. The learned Addl. Public Prosecutor, who is assisted by the learned Counsel for the complainant, would submit that the marriage in question with the applicant took place on 27th May 2014 and in view of the presumption, as available under the Evidence Act, it is required to be inferred that the applicants are prima facie involved in the crime as burden is not discharged. He would then submit that the custodial interrogation of the applicants would be necessary looking to the allegations made in the FIR. As such, he has urged that the application be rejected.

7. Having bestowed my thoughts to the submissions made, it is required to be noted that the investigation papers depict that prima facie allegations are attributed against applicant no.1. So far as applicant no.1 is concerned, the application is rejected as not pressed. Apart from above, it is required to be noted that all family

members from accused side are implicated as accused persons including female members.

8. Looking to the nature of allegations made in the FIR, in my opinion, custodial interrogation of applicant nos.2, 3 and 4 is not necessary and they deserve to be granted pre-arrest bail.

9. Hence, the Application is partly allowed.

(a) As aforesaid, application to the extent of applicant no.1 - Mohd. Shehzad Arif Mosani stands rejected as not pressed.

(b) The application of applicant nos.2, 3 and 4, namely, Farzana Bano Arif Mosani, Mohd, Raees Mohd. Arif Mosani and Uzma Bano w/o. Raees Mosani, respectively, is allowed and they are directed to be released on bail, in the event of their arrest in connection with Crime No. 80/2016 registered with Naya Mondha Police Station, Parbhani, for offences punishable under Sections 491-a, 323, 504, 506, read with Section 34 of the IPC, on their executing P.R. Bond in the sum of Rs. 15,000/-, each, with one surety in the like amount by each of them.

(c) Applicant nos.2, 3 and 4 are directed to attend the concerned Police Station initially on 25th, 26th and 27th June 2016, between 10.00 a.m. and 12.00 noon

and thereafter as and when called by the Investigating Officer for the purpose of investigation.

(d) Applicant nos.2, 3 and 4 shall not try to contact any of the prosecution witnesses and they shall not try to tamper with the prosecution evidence in any manner whatsoever.

10. The Application is disposed of in the above terms.

(N.W. SAMBRE)
JUDGE

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