

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

4 CRIMINAL APPLICATION NO. 2154 OF 2017

YAMUNA W/O. BHIKA KAMBLE AND ANR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Jadhav Narsing B
APP for Respondent/State : Mr. S.M. Ganachari
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CORAM : T.V. NALAWADE, J.
DATED : May 4, 2017.

ORDER :

1. The application is filed for relief of anticipatory bail. The submissions made show that this is the third application filed for anticipatory bail. One application was rejected after considering the material and other application was then withdrawn. Chargesheet is filed and the present applicants are shown as absconding accused and it is filed under section 299 of Cr.P.C. Both the sides are heard. Papers of investigation were made available to this Court for perusal.

2. In view of the circumstance that this is the third application, it was necessary for the applicants to make out case that there has been change in the circumstances, but no such case is made out. It is only submitted that one accused is discharged in the case and to one accused relief of anticipatory

bail was granted.

3. The crime was registered on the basis of report given by one Ujwala. She is married women and she has two issues. She was cohabiting with her husband. Adjacent to her house, there is house of present applicants. Sumitkumar is nephew of husband of the first informant. Yamuna is mother of Sumitkumar and Vijayabai is maternal aunt of Sumitkumar.

4. In the month of April, Sumitkumar and the first informant had left home and they had gone to other place where they had stayed for some time. Even informant is contending that there was love affair between her and Sumitkumar. Due to this love affair, the family members of Sumitkumar had become angry with the first informant. They were feeling that due to this relationship, the family was being defamed.

5. The incident in question took place on 21.6.2016 after 6.30 p.m. The informant was cooking food and then she heard the abuses which were being given to her by all the members of the family of the applicants. When she came out and asked the applicants, the lady members of the family of Sumitkumar held her and virtually dragged her. Allegation are

made that Yamunabai and Vijayabai pulled her heir and they made her to fall. Allegations are made that Sukhdev, uncle of Sumitkumar then fetched a bottle of kerosene and poured kerosene on the person of the first informant. He said that they would finish her on that day. When the husband of informant tried to intervene, he was assaulted to keep him aside. The first informant somehow escaped and she tried to run away, but chase was given to her. During chase, Yamunabai, applicant No. 1, threw a burning matchstick at first informant. As kerosene was already poured on the person of first informant by the Sukhdev, her Sari caught fire. She shouted for help and then her husband somehow extinguished the fire. In respect of this incident dated 21.6.2016, the crime came to be registered on 22.6.2016 for the offence punishable under section 307, 149 etc. of I.P.C. So many statements, which were expected to be dying declarations of the first informant, were recorded. She remained consistent in respect of her allegation that both the present applicants had taken active part in the incident, they had held her, they had made her to fall and when she was lying on the ground, kerosene was poured on her person and then Yamunabai had set fire to her by throwing burning matchstick at her. She sustained burn injuries to the extent of 51%.

6. The learned counsel for the applicants submitted that they are ladies and police must have completed investigation and chargesheet is filed and so, relief needs to be granted. Only because chargesheet is filed, it cannot be said that investigation as against the present applicants is completed. They are shown as absconding accused and chargesheet is filed against them under section 299 of Cr.P.C. Even when this Court had refused anticipatory bail, they did not surrender and they keep on filing applications for anticipatory bail. It is unfortunate that no further action was taken by police even when anticipatory bail applications were rejected. In view of these circumstances, this Court holds that discretionary relief cannot be used in favour of applicants. It was submitted for the applicant No. 2 that she is sick person and she has suffered injuries in accident. This submission cannot be accepted in the matter like present one, though it can be considered for regular bail. For the present purpose, they need to be arrested and custodial interrogation is must in the present case. In the result, the application stands rejected.

[T.V. NALAWADE, J.]

SSC/