

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2714 OF 2017

Husnoddin Abdul Kadar Shaikh, Age ... **Applicant.**
57 years, Occ. Service, R/o.
Chistiya Park, Shivaji Nagar,
Jalgaon.

V E R S U S

The State of Maharashtra. ... **Respondent.**

Mr. Joydeep Chatterji, Advocate for the Applicant
Mr. K.N. Lokhande, A.P.P. for the respondent/State

CORAM : K.L. WADANE, J.

DATE : 12th July, 2017

ORDER :

1. Heard Mr. Chatterji learned counsel appearing for the applicant and Mr. Lokhande, learned A.P.P. appearing for the respondent-State.

2. Present application is filed by the applicant under the provisions of Section 438 of the Code of Criminal Procedure in connection with Crime No. 43/2017 registered with Jalgaon (City) Police Station for the offences punishable under section 307, 406, 498A, 354, 324, 323, 294, 504, 506 read with section 34 of the Indian Penal Code.

3. One Misba w/o Azruddin Shaikh has alleged that since 08 months prior to the lodging of report, she was not allowed to keep any contact with her parents. They used to demand an amount of Rs. 4 Lakhs for transfer of her husband. Her husband and brother-in-law used to threaten her that law and order is in their hand and they will commit murder of her father and thrown him away. Her father-in-law i.e. present applicant used to demand for physical relationship.

4. It is further alleged that on 14.03.2017 at about 8 a.m. Her mother-in-law caught hold her and her father-in-law tried to strangulate her by scarf (Odhani) and snatched gold ornaments. At about 11 a.m., her in-laws came along with articles in Santro Car. At that time father-in-law of informant beat them, smashed the head of one Nasrinbee on the Santro Car and pushed Nasrinbi on road. Due to which Nasrinbi sustained injury to her head and she was admitted in Orchid Hospital, Jalgaon. On the basis of the information given by the informant an offence came to be registered against the applicant.

5. From the contents of the first information

report, it appears that, the informant is daughter-in-law of the present applicant who alleges that, the present applicant was asking for sexual favour. In normal circumstances, a daughter-in-law will not allege against father-in-law about physical relationship, unless there was something wrong with the applicant.

6. Further more, I have gone through the statement of Anwar Akhil Khan, Ibrahim Beg, Asif Khan and the other statements including medical certificate of Nasrinbee dated 15.03.2017 and another certificate of dated 17.06.2017, from which it appears that, the above referred witnesses have specifically stated that on the day and time of the incident, the present applicant caught hold the head of the witness Nasrinbee and struck it to the car. The statement of the above witnesses are consistent with the above facts which is supporting to the medical certificates.

7. From the certificate dated 15.03.2017, it appears that the patient namely Nasrinbee was brought to the hospital i.e. Orchid Multi Superspeciality Hospital in a serious condition and on ventilatory

support. From the certificate dated 17.03.2017 it appears that, the patient was operated for the head injury and was discharged on 05.04.2017. Therefore, it appears from the record that, one of the injured was received grievous injury and for that purpose she was indoor patient from 15.03.2017 to 05.04.2017.

8. Since there are specific allegations against the present applicant about the assault on injured, his involvement in the crime is very much clear. The applicant is stated to be a police officer, in such circumstances, it does not expect from him to do such alleged act with his daughter-in-law.

9. In view of the above, the applicant is not entitled for the relief under section 438 of the Code of Criminal Procedure. Hence, following order.

O R D E R.

1. The aforesaid observations made prima-facie to decide the bail application and same shall not be dealt with at the time of trial.

2. The application is rejected.

3. After passing the order Mr. Chatterji learned counsel appearing for the applicant makes a statement that the applicant is going to surrender before the police on 26.07.2017. Therefore, the applicant may be protected from his arrest at least till 26.06.2017. Hence, applicant shall not be arrested till 26.07.2017.

(K.L. WADANE, J.)

mkd/-