

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

923 CRIMINAL APPLICATION NO. 3365 OF 2017

GAJANAN S/O. RAGHUNATH ADHAV AND ANR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Nilesh S. Ghanekar.
APP for Respondent : Mr. A. A. Jagatkar.

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CORAM : **V. K. JADHAV, J.**
DATE : 07th September, 2017.

ORDER:

. The learned counsel for Applicants, on instructions, seeks leave to withdraw the application of Applicant No.1 with liberty to approach the Sessions Court again after filing of the charge-sheet. Leave granted. The application of Applicant No.1 Gajanan s/o Raghunath Adhav is disposed of as withdrawn with liberty as aforesaid.

2 By this application, Applicant No.2 is seeking pre-arrest bail in connection with Crime No.122 of 2017 registered at Wadod Bazar Police Station, Taluka Phulambri, District Aurangabad for the offences punishable under Sections 307, 498(A), 323, 504 and 506 read with 34 of the Indian Penal. Her application with similar prayer bearing Bail Petition No.1064 of 2017 came to be rejected by the

Additional Sessions Judge-8, Aurangabad by order dated 23rd June, 2017.

3 Brief facts giving rise to the present application are as follows:

On the basis of the complaint lodged by one Manisha Adhav dated 13th June, 2017, the aforesaid crime came to be registered. Informant is the wife of present Applicant No.1 and their marriage was solemnized on 24th April, 2016. After the marriage, she started cohabiting with her husband and Applicant No.2 alongwith other family members. It has been alleged in the complaint that she was treated well for 2-3 months and thereafter, subjected to ill-treatment on account of non-fulfillment of unlawful demand of Rs.10,00,000/- for purchasing the plot in Aurangabad City. Initially, though the informant has filed a complaint in the concerned police station, the matter was compromised and as such, she was taken for further cohabitation. However, even thereafter, she was subjected to ill-treatment. It has been alleged in the complainant that her husband and Applicant No.2 / mother-in-law started ill-treating her by suspecting about her character and also for other reasons. It has been alleged in the complaint that on the day of incident, quarrel had taken place in which present Applicant No.2 has snatched her *Mangalsutra* and the husband

brought the kerosene can from the house and poured the kerosene on her person. It has been alleged in the complaint that Applicant No.2 was searching the matchstick. She got the matchstick and at that time the neighbours intervened in the matter. Even thereafter, the husband of informant tried to throttle her and as such, she sustained the injury on her neck. On the basis of these allegations, Applicant No.2 / mother-in-law came to be arrested on 14th June, 2017.

4 The learned counsel for Applicants submits that Applicant No.2 is the old aged lady and the allegations have been made mainly against the husband. The learned Additional Sessions Judge, Aurangabad has rejected the application on the ground that the investigation is at preliminary stage. The learned counsel submits that the investigation in this crime is almost over and the formality of filing the charge-sheet is only remained. Applicant No.2 has fixed place of residence and she is easily available for trial. The informant is residing with her parents in a different village and as such, there is no possibility of tampering with the prosecution evidence.

5 The learned APP has strongly resisted the application on the ground that after pouring the kerosene on the persons of informant, present Applicant No.2 has tried to set her on fire with the help of

matchstick. However, due to the intervention by the neighbours, the informant was saved. The learned APP submits that there is strong *prima-facie* case against present Applicant No.2 and as such, her application is liable to be rejected.

6 On perusal of the complaint and the investigation papers, it appears that the allegations have been made mainly against the husband of informant and it has been alleged in the complaint that present Applicant No.2 was taking the matchstick and at that time, neighbours intervened in the matter. The Informant is now staying with her parents. Applicant No.2 is an old aged woman. There is no question of tampering with the prosecution evidence. The further detention of Applicant No.2 is uncalled for. Applicant No.1 husband has withdrawn his application for bail. Hence, the following order:

ORDER

- I. Criminal application is hereby partly allowed.
- II. In the event of arrest of Applicant No.2 Kausalyabai w/o Raghunath Adhav in connection with Crime No.122 of 2017 registered at Wadod Bazar Police Station, Taluka Phulambri, District Aurangabad, she be released on bail on furnishing personal bond of

Rs.15,000/- with one surety of the like amount on the following conditions:

- a) The Applicant shall not tamper with the prosecution evidence in any manner.

III. Criminal application is accordingly disposed of.

[V. K. JADHAV, J.]

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