

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

CRIMINAL APPLICATION NO. 3438 OF 2017

1. Adika Anil Bhitade ... **Applicants**
Age 42 years, Occu: Household
2. Anil Kisan Bhitade,
Age 48 years, Occu: Agri.

VERSUS

The State of Maharashtra ... **Respondent**
Through Police Station Officer,
Karjat Police Station,
District Ahmednagar.

Mr. Niteen V. Gaware, Advocate for the applicants
Mr. S. B. Joshi, APP for the State.

CORAM : K. L. WADANE, J.

DATE : 25th July, 2017

ORDER:

1. Heard Mr. Gaware, learned counsel for the applicants and Mr. Joshi, learned APP for the State.
2. Present Criminal Application is filed under section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No. I-69/2017, registered with Karjat Police Station, District Ahmednagar for the offences punishable under sections 498-A 307, 323, 504, 506 read with section 34 of the Indian Penal Code, 1860.
3. The informant Reshma w/o Hanuman Bhitade lodged

the first information report on 04.03.2017 against the present applicants and her husband Hanuman alleging that her marriage was sermonized prior to two years with Hanuman. It is alleged that initially she was treated well but subsequently her husband started abusing her saying that he did not like her. Further it is alleged that there was demand of Rs.50,000/-for payment of loan instalment of tractor and on that count she was ill-treated by her in-laws i.e. the present applicants. It is further alleged that on 26.02.2017, on account of not fulfilling the illegal demand of money, the accused persons have tried to administer poison to her. The present applicants have caught hold her hands and her husband administered poison, due to which she was taken to the hospital. Thereafter, on 04.03.2017 the FIR came to be lodged and on the basis of which, offence as referred above came to be registered against the applicants and husband of the informant.

4. Since charge sheet is filed against the applicants, by referring to the statements of various witnesses Mr. Gaware, the learned counsel for the applicants points out that there is no evidence to show that the family of the present applicants or

husband of the informant possessing tractor and it was purchased after obtaining loan. Therefore, question of ill-treatment on account of demand Rs.50,000/- for payment of loan instalment of tractor does not arise. The learned counsel further points out that there is delay in filing F.I.R. The learned counsel, referred the relevant medical treatment papers of Dr. Sunil Jadhav Hospital, Ahmednagar. It is a progress sheet. From the same, it appears that the informant was admitted in the Hospital on 26.02.2017 at about 12.00 noon having history of consumption of Tiktak at 8.30 p.m. of 25.02.2017. On perusal of further progress sheet, dated 28.2.2017, it appears that at about 7.30 a.m, the informant was conscious and oriented and subsequently, after completion of medical treatment, she was discharged on 06.03.2017. Mr. Gaware, further points out that after the informant regained conscious on 28.02.2017, she has not complained anything against any of the accused. So there was delay of four days in filing of the first information report. The learned counsel further points out that husband of the informant was arrested and he is in MCR.

5. Looking to the allegations against the present applicants that they were holding hands of the

informant and the fact that investigation is completed and charge sheet is filed, I am of the prima facie opinion that evidence on motive is lacking. In such circumstance, the applicants can be protected from their arrest. Hence following order:

O R D E R

- i. In the event of arrest of the applicants in connection with Crime No. I-69/2017, registered with Karjat Police Station, District Ahmednagar, they shall be released on bail on their executing P.R. Bond of Rs. 10,000/- [Rs. Ten thousand only] each, with one solvent surety in the like amount.
- ii. The applicants shall not tamper with evidence of prosecution in any manner.
- iii. Criminal application disposed of.

(K. L. WADANE, J.)

JPC