

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPTORY BAIL APPLICATION NO.2072 OF 2017

1) IRFAN SAIFAN NADAF @ RAJU)
2) SMT.SHABANA JALIL MAUJAN)...APPLICANTS

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Neville D. Deboo i/b. Mr.Abhay Bhoir, Advocate for the Applicants.

Mr.S.V.Gavand, APP for the Respondent – State.

Mr.J.A.Shaikh, Assistant Police Inspector, Bhiwandi City Police Station, Thane, present in the court.

CORAM : A. M. BADAR, J.

DATE : 4th DECEMBER 2017

P.C. :

1 Applicants/accused in Crime No.249 of 2017, registered with Bhiwandi City Police Station, Thane, for offences punishable under Sections 366, 376, 504, 506 read with 34 of the Indian Penal Code (IPC), by this application, are seeking pre-arrest bail.

2 Heard the learned advocate appearing for applicants/accused. By pointing out the First Information Report (FIR), the learned advocate for applicants/accused argued that the FIR itself reflects that applicant no.1, who is driver of the car of Ola Company had reached co-accused Khalil and the alleged victim of the crime in question to Lonavala. This was as per the call of the duty entrusted to the driver of the vehicle and no criminal misconduct can be inferred from this conduct. The learned advocate further argued that applicant no.2 is related to the co-accused and allegations against her are to the effect that she had threatened the alleged victim of the crime in question for forcing her to marry co-accused Khalil. According to the learned advocate for applicants/accused, all co-accused are already released on bail and considering the role attributed to present applicants/accused, their custodial interrogation is not warranted. The learned advocate drew my attention to photographs of the alleged victim of the crime in question and co-accused Khalil in order to demonstrate that Khalil and the alleged victim of the crime in question married because of their love affair and

ultimately, as something went wrong, all accused are dragged in the crime in question.

3 The learned APP opposed the application by contending that the FIR itself reflected that in presence of Irfan @ Raju, co-accused caught hold of the alleged victim of the crime in question and dragged her towards the car, of which applicant/accused Irfan @ Raju was the driver. The learned APP further argued that the FIR itself makes it clear that applicant no.2 has threatened the alleged victim of the crime in question for forcing her to marry by warning that else, she would be branded by a hot iron.

4 I have carefully considered the rival submissions and also perused the entire charge-sheet. The FIR itself shows that the alleged victim of the crime in question was 18 years old at the time of the alleged incident. The FIR reflects that she was having love relation with the co-accused named Khalil Shaikh. The FIR lodged by her goes to show that in the car driven by applicant/

accused Irfan @ Raju, co-accused Khalik took her to Lonavala. From there, the alleged victim of the crime in question accompanied co-accused Khalil to Solapur. They undertook the journey by a bus. Then they went by bus to Gulbarga. Then the couple traveled to Village Nandur. According to the First Informant / alleged victim of the crime in question, she was forcibly married to Khalil and at that time, present applicants/accused had threatened by warning her that she would be branded by a hot iron, if she refused to marry Khalil.

5 The First Informant, who is an adult lady, had accompanied co-accused Khalil by a public transport to various places. She stayed with him at those places. The FIR does not show that the First Informant had raised any hue or cry during the entire journey which she undertook with co-accused Khalil. The photographs filed along with the application, prima facie, indicate that the couple was deeply in love with each other. In this view of the matter, as well as considering the role attributed to both applicants/accused in the crime in question, I am of the

considered opinion that their custodial interrogation is not warranted. Interest of the prosecution can be taken care of by directing them to join the investigation. As such, the order :

ORDER

- i) The application is allowed.
- ii) In the event of arrest in Crime No.249 of 2017, registered with Bhiwandi City Police Station, Thane, for offences punishable under Sections 366, 376, 504, 506 read with 34 of the Indian Penal Code, applicants/accused shall be released on bail on their executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount, by each of them.
- iii) As a condition of this order, applicants/accused shall attend the concerned Police Station on 9th December 2017, 16th December 2017 and 23rd December 2017, between 11.00 a.m. and 1.00 p.m. In addition, they should attend the concerned Police Station as and when directed in writing by the Investigating Officer and should co-operate the Investigating Officer in investigation of the crime in question.
- vi) The application is disposed of.

(A. M. BADAR, J.)