

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 326 OF 2018**

Sachin Sheshnarayan Mishra & Ors.

....Applicants.

Vs.

The State of Maharashtra & Anr.

....Respondents.

Adv. Mallika Ingale, with Hemant Shukla, R. P. Thakkar for the Applicants.

Ms. Rutuja Ambekar APP, for the Respondent-State.

Mr. M. Gond, a/w S.K. Singh for the Intervenor.

**CORAM : A. S. GADKARI, J.**

**DATE : 8<sup>th</sup> AUGUST, 2018.**

**P.C.:-**

The Applicants were granted interim relief by an Order dated 21<sup>st</sup> February, 2018.

2 Heard the learned counsel for the Applicants, the learned counsel for the Respondent No.2 and the learned APP. Perused the record.

3 The first information report is lodged by Smt. Ruby Mishra.

The Applicant No.1 is the husband of the first informant. The Applicant Nos. 2 to 7 are the in-laws of the first informant. It is alleged that, after the marriage of the informant, the Applicants used to harass and cause cruelty to the informant and used to have doubt

about her chastity. It is alleged that, on 8<sup>th</sup> January 2018, the in-laws of the first informant assaulted her and forced her to drink phenyl. The first informant created hue and cry however, as it was 2.00 a.m. of the wee hours, nobody from the vicinity came to her rescue. It is further alleged that, when she was admitted to the hospital, the Applicants pleaded guilty and prayed her for mercy and therefore, she did not made any complaint against them and has given a statement to the doctor that, she herself had consumed phenyl. In the premise, the first information report is lodged on 26<sup>th</sup> January, 2018.

4           The record of investigation indicates that, when the first informant was admitted to the hospital, in presence of the concerned doctor, her statement was recorded by the police officer wherein she has stated that due to some tiff with her in-laws, which took place at her matrimonial house, she consumed "*Lizol*" and thereafter she started feeling giddiness and therefore, the in-laws brought her to the hospital.

          The statement of the first informant dated 9<sup>th</sup> January, 2018 recorded by the police indicates that, when the said statement was recorded by the police in hospital, it is the concerned doctor and the concerned police officer were only present and it further appears

that the said statement had been given without any duress and/or coercion by the Applicants herein.

5           The record further indicates that, as the first informant had given the said statement dated 9<sup>th</sup> January, 2018 to the police, the police did not subsequently collect the stomach-wash of the informant within stipulated period and therefore, the concerned hospital disposed of the said sample in due course. The said hospital i.e. Arush Hospital has issued a letter dated 28<sup>th</sup> January, 2018 to the Senior Inspector of Police, Nalasopara Police Station, Nalasopara West in that behalf.

6           Thus, prima facie it appears that, the first information report lodged by the informant belatedly i.e. after a gap of about 15 days is an after thought. In view thereof, the custodial interrogation of the Applicants for further investigation of the present crime is not necessary.

7           Interim relief granted by an Order dated 21<sup>st</sup> February, 2018 is hereby confirmed.

8           Application is allowed in the aforesaid terms.

**(A.S. GADKARI, J.)**