

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL ANTICIPATORY BAIL APPLICATION NO.357 OF 2018**

Ashwini @ Nidhi Nikhil Thite and Ors.

..Applicants

vs.

The State of Maharashtra

...Respondent

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Mr. Malhari J. Bandgar a/w Mr. M. H. Patel for the Applicants.

Mr. S. R. Agarkar, APP for the Respondent-State.

Mr. J. S. Salunkhe, API Vijaypur Naka Police Station, Solapur City.

Mr. Raghvendra B. Kulkarni i/b Mr. Nikhil Gite for the Original complainant.

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**CORAM : P. N. DESHMUKH, J.**

**DATE : 5<sup>th</sup> MARCH, 2018**

**P.C.:**

. This application is by the daughter and her parents for grant of Anticipatory Bail in an offence registered vide C.R. No.610/2017 under sections 120-B, 315, 323, 504, 506(ii) of the IPC by Vijapur Naka Police Station, Solapur.

2. Heard the learned counsel for the Applicants and learned APP and also perused the case diary. Mr. Kulkarni, learned counsel for the Intervenor submits that though he has instructions to appear, he received such instructions just one week before and therefore for the same reason he could not file application for intervention.

3. It is submitted by the learned counsel for the applicants that C.R. No.610/2017 as aforesaid came to be registered in compliance of order under section 156(3) of Cr.P.C. passed by the learned Judicial Magistrate dated 27/10/2017 and it is specific case of the applicant that filing of such a private complaint by the husband of the applicant No.1 is an

outcome of Applicant's taking recourse to Domestic Violence Act against her husband. It is only thereafter that the Applicant No.1's husband filed a complaint as aforesaid and the offence came to be registered wherein the applicants are apprehending arrest.

4. Mr.Bandgar, Learned counsel for Applicants further contended that in fact applicant No.1 on 25/4/2017 had lodged a report with Vijapur Naka Police Station alleging that on 5/4/2017 at 10.00 p.m. her husband Nikhil assaulted her and her in-laws left her to her parental home situated at Raghunath Nagar. During the course of said report applicant No.1 is found referred for medical examination. Discharge summary by Dr. Vidya dated 30/4/2017 reveals that the Applicant No.1 was admitted in Government Medical College at Solapur and was discharged on 30/4/2017, during which period she had undergone termination of pregnancy. The history given by the patient was that she was assaulted by her husband due to which she sustained blunt trauma to face, head and legs injury and since the patient wanted to get separated from her husband due to mental and physical trauma, her pregnancy of 18 weeks and 6 days came to be terminated. This document clearly establish that such step was required to be taken by Applicant No.1 due to physical assault sustained by her at the hands of her husband.

5. Mr.Agarkar, Learned APP referred to one medical certificate issued by Dr.Sadhana according to which the Applicant was under treatment from 31/1/2017 to 7/4/2017 during which period she did not complaint of any assault nor the medical officer found any injury on her person and as per the certificate till 7/4/2017 everything was normal. Referring to above certificate learned APP submitted that the Applicant No.1 along with her parents illegally got her pregnancy terminated.

6. The document issued by Dr. Sadhana as aforesaid when considered is pertaining to the period till 7/4/2017. The document filed with the application, particularly the report dated 25/4/2017 establish assault on her by her husband due to which she was left by her in-laws to her parental home. Further document dated 30/4/2017 of Government Medical Hospital referred aforesaid establish that the pregnancy of the applicant No.1 was required to be terminated due to physical and mental trauma sustained by her as an outcome of assault by her husband.

7. The document particularly, the complaint lodged by Applicant No.1 as aforesaid establish that the complaint lodged by the husband of applicant No.1 is an afterthought to falsely implicate the applicant. In that view of the matter, application is liable to be allowed by imposing suitable conditions as per the order below:

#### **ORDER**

- i) In the event of arrest of the Applicants in C.R. No.610/2017 registered by Vijapur Naka Police Station, Solapur, the Applicants shall be released on bail on their executing P.R. Bond of Rs.25,000/- each with one surety each in the like amount;
- ii) The Applicants shall attend the Investigating Officer in the above crime on 10/3/2018 and 11/3/2018 between 10.00 a.m. and 12.00 noon and, thereafter as and when called by the Investigating Officer till filing of the charge-sheet preferably between 4.00 p.m. to 6.00 p.m., as it is stated that the Applicant Nos.1 and 2 are teachers by profession.

**(P.N. DESHMUKH, J)**