

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1938 OF 2018

1. Suresh Ramdas Baviskar, Age 63 years,
2. Sunanda Suresh Baviskar, Age 60 years,
3. Duhita PradipChaudhari, Age 60 years,
All R/o.Ner, Tal. And Dist.Dhule.
4. Kavita Omvamshi Gangipamula, Age 33 years,
R.o.904, Flat No.904, B/5, Near Vinayak
Hospital, Warje, Pune-52.

Applicants

versus

The State of Maharashtra

Respondent

Mr.Vishal Kalekar for applicants.

Mrs.A.A.Takalkar, APP, for State.

Mr.Anandrao Kashid, PSI, D.N.Nagar Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 21st September 2018

PC :

1. The applicants are apprehending arrest in connection with CR No.212 of 2018 registered with D.N.Nagar Police Station, Mumbai for offences under Sections 498A, 406, 323, 504, 506 read with Section 34 of Indian Penal Code. The FIR was lodged on 27th April 2018. The applicant nos.1 and 2 are father-in-law and mother-in-law of the complainant whereas applicant nos.3 and 4 are sisters-in-law of the complainant. The FIR is lodged on account of matrimonial discord between parties. The husband of the complainant is already arrested and he has been granted bail. The applicants had preferred an application for anticipatory bail before the Sessions Court which was rejected on 6th August 2018.

2. Perusal of FIR indicates that there are matrimonial disputes between the informant and her husband since 2009 to 2013. Both of them had instituted different litigations against each other. Before lodging the FIR, the complainant had initiated complaint under Protection of Women from Domestic Violence Act, 2005. Learned advocate for applicant submitted that both the parties have filed purshis and said proceedings were withdrawn. Pursuant to that the FIR was registered. Notice u/s 41(1) of Cr.P.C was issued to applicant. On perusal of the order passed by Sessions Court, it is apparent that primary objection of the prosecution was that the applicant had not attended the police station though notice was issued to them under Section 41(1) of Cr.P.C. The learned Sessions Judge has observed that the say filed by the prosecution states that the applicant had not replied to the notice nor co-operated with investigation.

3. Learned APP submitted that in spite of notice being issued to them the applicants had not approached the investigating officer and had not co-operated with investigation.

4. The advocate for applicant had submitted that the FIR has been registered at D.N.Nagar Police Station and applicant nos.1 to 3 are residents of Dhule and applicant no.4 is resident of Pune. Therefore, they could not respond to the notice issued by police and, therefore, there was difficulty in attending the police when notice was issued. It is submitted that the applicants would co-operate with investigation.

5. The dispute is arising out of matrimonial differences. The application was rejected by Sessions Court on the ground of non attendance to police station. Husband of complainant was arrested. Custody of applicants is not required.

6. Hence, I pass following order :

ORDER

(i) In the event of arrest of applicants in connection with CR No.212 of 2018 registered with D.N.Nagar Police Station, Mumbai, the applicants be released on bail on furnishing PR bond in the sum of Rs.15,000/- with one or more sureties in the like amount;

(ii) The applicants shall attend the investigating officer of D.N.Nagar Police Station on 6th October 2018 and 7th October 2018 between 10 am and 12 noon;

(iii) The applicants thereafter shall attend the investigating officer of D.N.Nagar Police Station as and when called till filing of charge sheet.

(PRAKASH D. NAIK, J.)

MST