

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

ANTICIPATORY BAIL APPLICATION NO.2671 OF 2018

Rupesh Laxman Kadam & Ors.	 Applicants
versus	
The State of Maharashtra & Anr.	 Respondents
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- Mr.Raj Khude a/w Mr.Sandeep Mahadik, Advocate for Applicants.
- Ms.S.S. Kaushik, APP for the State/Respondent.
- WPSI Ms.Ashwini Patil, Chiplun Police Station, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th JULY, 2019

P.C. :

1. On the last occasion I had directed the Investigating Officer to serve a copy of this application on the first informant and obtain her acknowledgment. Today the learned APP on instructions of the Investigating Officer WPSI Ms.Ashwini Patil makes a statement that pursuant to that order the first informant is served. Therefore I am proceeding to hear this application. Today nobody appears on behalf of the first informant.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.305/18 registered with Chiplun Police

Station, Ratnagiri, under sections 498-A, 307, 323, 504 r/w 34 of the Indian Penal Code.

3. The Applicant No.1 is the husband of the first informant. The Applicant No.2 is the mother-in-law of the first informant and the Applicant No.3 is the wife of Applicant No.1's brother.

4. The FIR is lodged by the first informant on 24/11/2018. She has stated in her FIR that she got married with the Applicant No.1 on 03/08/2016 at Post Math, Taluka Lanja, District Ratnagiri. It was a love marriage and both of them belonged to different castes. She has mentioned in her FIR that immediately within a couple of days, the Applicant No.1 started illtreating her under influence of liquor. The FIR gives details of the verbal and physical abuses which she had to face at the hands of the present Applicant No.1. It is her case that this was going on in front of the Applicant Nos.2 and 3. But they used to instigate the Applicant No.1. It is further mentioned in the FIR

that the Applicant No.1 used the informant's documents in respect of her parental properties for obtaining loan. Her FIR further mentions the physical and mental violence which she had to endure at the hands of the Applicant No.1. On one occasion the Applicant No.1 even tried to throttle her and tried to commit her murder. On 07/09/2016 she had initially gone to Dr.Chavan at Kherdi and thereafter had gone to the police station at Chiplun. However, at that time the Applicant and his family members apologized and pacified her. Therefore she did not lodge her report. After that, the first informant started residing with her relatives. There was an attempt for reconciliation which was unsuccessful. The Applicant No.1 used to threaten the first informant on telephone. Finally she approached Reconciliation Forum on 11/04/2018. Therefore some further attempts were made for reconciliation. The Applicant No.1 promised that the first informant would be treated properly. However, there was no change in his behaviour and finally the present FIR was lodged. The allegations against the present Applicants are that apart from general harassment, on a particular date i.e. on

18/08/2018 when the first informant had gone to meet the Applicant No.1 at their house, the Applicant No.2 and 3 abused her.

5. Heard learned Counsel Mr.Raj Khude for the Applicant and learned APP Ms.S.S. Kaushik for the State.

6. Mr.Khude submitted that since the year 2016 the first informant was residing with her parents and there was hardly any cohabitation. Therefore there was no truth in the allegations of harassment in the house of the Applicants. He further submitted that the allegations in the FIR are general in nature and therefore custodial interrogation of the Applicants is not necessary. He submitted that the offence u/s 307 of IPC is not made out. The informant had given her application with the Mediation Forum on 11/04/2018 at that time she had not made reference to such offence u/s 307 of IPC or allegations in that behalf.

7. As against these submissions the learned APP submitted that the Applicant No.1 had treated the first informant with cruelty right from the beginning. His behaviour was abusive and he was extremely harsh on the first informant. This would amount to the offence punishable u/s 498-A of IPC. Therefore the Applicant No.1 does not deserve protection of anticipatory bail. She further submitted that even against the Applicant Nos.2 and 3 there are allegations in the FIR.

8. I have considered these submissions. I have perused the submissions in the FIR. The complaint given by the first informant to the Counsellor does not make any reference to the allegations that the Applicant No.1 tried to commit her murder. The Applicant also does not make any specific reference to the present Applicant Nos.2 and 3. Even in the FIR there are no specific instances of harassment caused by the Applicant Nos.2 and 3. Therefore these two Applicants deserve protection of anticipatory bail. However, the allegations against the present Applicant No.1 are serious. The nature of the abuses and

physical torture attributed to him are quite serious. Therefore looking at the seriousness of the offence, the protection of anticipatory bail for Applicant No.1 cannot be granted. Hence the following order :

ORDER

- (i) The application of the Applicant No.1 is rejected.
- (ii) In the event of their arrest in connection with C.R.No.305/18 registered with Chiplun Police Station, Ratnagiri, the Applicant No.2 Survarna Laxman Kadam and Applicant No.3 Sushama @ Rajashree Rakesh Kadam, are directed to be released on bail on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each, with one or two sureties each, in the like amount.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)