

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2698 OF 2018

Shabana Shaikh w/o Bhikan Shaikh & Anr.] ... Applicants

Versus

The State of Maharashtra] ... Respondent

Mr. M.K. Kocharekar i/b Sufiyan, Advocate for the Applicants.

Ms. S.S. Kaushik, APP for the State/Respondent.

PSI Sagar Nandre attached to Azadnagar Police Station, Malegaon, Nashik present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 17 JUNE, 2019.

P. C. :-

1. The applicants are seeking anticipatory bail in connection with C.R.No.I-67/2018 registered with Azadnagar Police Station, Malegaon, Nashik u/sec. 498 (A), 313, 323, 504, 506 of I.P.C.

2. The FIR is lodged by one Saima Shaikh on 23/06/2018. The present applicants are the mother-in-law and sister-in-law respectively. It is her case in the FIR that she got married with one Shaikh Shahezaad Shaikh Bhikan on 16/09/2017. Initially for a period of 15 to 20 days, she was treated properly. But thereafter her in laws

started ill treating her on the ground that her parents had not given sufficient articles and did not treat her husband properly. It is further alleged that Applicant No.1 and the informant's husband started demanding of Rs.3 Lakhs for starting business. She has further mentioned in the FIR that, on 22/10/2017, she came to know that she had become pregnant. At that time Applicant No.1 told her that they did not want a child so soon and that she should terminate her pregnancy. The first informant refused. On that ground there was disturbance in the family. It is alleged that the Applicant No.2 used to confine her in a room so that the first informant could not seek any help. It is a specific case of the first informant in the FIR that on 20/12/2017, both the applicants forcibly administered some medicine to the first informant causing heavy bleeding. She was taken to Al Amin Maternity Hospital, Nayapura, Malegaon. There Dr. Saika Jabin told them that the pregnancy was already terminated through bleeding. The first informant was further ill treated and her parents were asked to take her home. After few days, the first informant made complaints to Protection Committee and ultimately after the counselling failed, she lodged her FIR.

3. Heard Mr. M.K. Kocharekar, Ld. Counsel for the Applicants and Ms. S.S. Kaushik, APP for the State/Respondent.

4. Ld. Counsel for the applicants submitted that both the applicants are falsely implicated. The Applicant No.2 is just 18 years of age and her future will be ruined if she is arrested. He further submitted that the incident narrated by the first informant could not have taken place and nobody could have forced the first informant to consume medicines. He further submitted that the alleged incident had taken place on 20/12/2017 and the FIR is lodged on 23/06/2018 and thus there is inordinate delay which points out to an after thought against the first informant in lodging the FIR.

5. As against that, Ld. APP submits that the allegations are serious. Both these applicants have forced the first informant to consume the medicine. There is specific role alleged against the applicants.

6. I have perused investigation papers produced before me. The investigation papers contains the complaint dated 19/03/2018 signed by the first informant addressed to different protection committees.

In the said complaint, she has specifically mentioned that when she become pregnant, her husband and his family members including the present applicants took her forcibly to Al Amin Maternity Hospital, Nayapura, Malegaon on 20/12/2017 and through Dr. Saika Jabin administered some medicines to her causing bleeding leading to abortion. Thus, there is much variance between the FIR and the earlier complaint given by the first informant. In the FIR, she has attributed specific role to the applicants that they forcibly administered medicine. Whereas in her earlier complaint she has mentioned that the applicants and others through Dr.Saika Jabin had administered the medicine.

7. The other allegations of ill treatment are general and there are no particular allegations against the Applicant No.2. For these general allegations, the custodial interrogation is not necessary. In respect of the serious offence u/sec. 313 of I.P.C., the investigation itself shows that the story of the first informant is not consistent and there appears to be some attempt on her part to involve these applicants. In this view of the matter, it will not be proper to deny the anticipatory bail to the present applicants. The investigation can still go on. However,

custodial interrogation of the applicants may not be necessary.
Hence, the following order.

ORDER

1. In the event of their arrest in connection with C.R.No.I-67/2018 registered with Azadnagar Police Station, Malegaon, Nashik the Applicants are directed to be released on bail on their executing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.
2. The applicants shall co-operate with the investigation.
3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)