

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Application (ABA) No.164 of 2019
(Nilesh Ramdas Adhau and others .vs. State of Maharashtra through PSO
PS Hiwarkhed, Dist. Akola)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. Abdul Subhan, Advocate for Applicants.
Mr. J.Y. Ghurde, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : June 20, 2019.

The applicants herein are the husband, father-in-law and brother-in-law of the complainant, at whose behest FIR dated 27.02.2019 was registered against the applicants for having committed offences under Sections 109, 313, 498-A, 504 read with 34 of the Indian Penal Code.

2. The said FIR was registered in pursuance of oral report submitted by the complainant on 27.02.2019, wherein it was claimed that the applicants had harassed the complainant with regard to demand of money, which had been transferred from the account of the complainant to her father. It was claimed that the applicants were insisting upon the complainant for terminating pregnancy and that in pursuance thereof the applicant no.1 had given certain medicine to the complainant on 24.12.2018 as also 25.12.2018 and 26.12.2018, ultimately leading to termination of pregnancy on 29.12.2018. The complainant has claimed

that by such actions, the applicant had committed the aforesaid offences.

3. It is submitted by the learned counsel appearing for the applicants that there is considerable delay in registration of FIR as the incident of alleged forcible termination of pregnancy had taken place on 29.12.2018, while the complainant approached the Police Station for the first time after about two months on 27.02.2019. It was submitted that the narration of events by the complainant was nothing but an after thought because there was matrimonial discord between the parties. It was submitted that since the claims made by the complainant were not supported by any material and there was delay in registration of FIR, the applicants deserve to be granted anticipatory bail.

4. The learned APP has opposed the present application, particularly in the context of applicant no.1 who is the husband of the complainant, on the ground that he had administered certain medicine to the complainant to forcibly terminate the pregnancy and that at least insofar as he was concerned, custody was required for proper investigation into the matter.

5. Heard learned counsel for the rival parties and perused the material placed on record. It is clear from the FIR itself that according to the complainant the incident of forcible termination of pregnancy took place on 29.12.2018 and yet the FIR was registered after about two months on 27.02.2019. The other aspect of

the matter is that even according to the complainant, the accused persons were insisting upon payment of Rs.3,70,000/-, which had been transferred from the account of the complainant to her father. It is claimed that the complainant was suffering harassment at the hands of the applicants for such demand of money and that this amounted to the applicants having committed the aforesaid offences.

6. From the material on record, *prima facie*, it appears that there is matrimonial discord between the applicant no.1 and the complainant. As regards the serious offence under Section 313 of the I.P.C., at this stage it appears that there is considerable delay on the part of the complainant in reporting the matter to the Police as the alleged forcible medical termination of pregnancy took place on 29.12.2018 and the report was lodged only on 27.02.2019. In these circumstances, it becomes clear that the applicants are entitled to grant of relief.

7. On 14.03.2019 while issuing notice, this Court had granted ad-interim anticipatory bail to the applicants and it was directed as follows:-

“(i) *Ad-interim anticipatory bail is granted.*

(ii) *In the event of arrest of the applicants in Crime No. 46/2019 registered with Police Station, Hiwarkhed, District Akola, they be released on bail on furnishing PR bonds in the sum of Rs.25,000/- each with one solvent surety each in like amount on condition that the applicants shall*

attend Police Station, Hiwarkhed, Dist. Akola once in a week i.e. on every Sunday in between 10.00 a.m. to 5.00 p.m. and shall cooperate the investigating agency."

8. The learned counsel for the applicants has produced documents to show that the applicants have abided by the directions given by this Court in the aforesaid order and that they have visited the Police Station as directed.

9. In this backdrop, the present application is allowed. The applicants are granted anticipatory bail on the conditions on which they were granted ad-interim anticipatory bail by order dated 14.03.2019 passed by this Court, quoted above. The applicants are directed to continue to cooperate with the investigation. They are also directed not to tamper with the evidence or to influence witnesses. The applicants shall report to the aforesaid Police Station as directed by this Court till the filing of the charge-sheet.

10. It is clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants.

JUDGE