

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

28 ANTICIPATORY BAIL APPLICATION NO.776 OF 2020

SOPAN LALU RATHOD AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. S.J. Salunke, Advocate for applicant

Mr. N.T. Bhagat, APP for respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 27th OCTOBER, 2020

ORDER :

1 Both the applicants are apprehending their arrest in connection with Crime No.349/2020 dated 24.08.2020 registered with Police Station, Jintur, Dist. Parbhani for the offence punishable under Section 328, 323, 506 read with Section 34 of the Indian Penal Code.

2 Heard learned Advocate Mr. S.J. Salunke for applicant and learned APP Mr. N.T. Bhagat for respondent.

3 Applicants are the mother-in-law and father-in-law of the informant. Informant got married to the daughter of present applicants on 19.04.2017. The contents of the first information report (FIR) are that the wife of informant was pregnant, and therefore, he had left her at Jintur in

November, 2019. Informant resides at Pune in connection with his work. However, his parents are residing at Malegaon Tanda. After the lock-down was declared, he says, that he had shifted his wife Priti to Malegaon in May, 2020. He states that on 22.08.2020 when he and his wife were at home in Malegaon Tanda, there was quarrel between them. Thereafter his wife had given a phone call to the present applicants and asked them to come to Malegaon and accordingly, the applicants with their son went at 9.00 p.m.. They started threatening the informant and on the say of applicant No.1, the applicant No.2 had administered poisonous substance in powder form. He states, that he became unconscious and regained the consciousness in hospital. He has then lodged the report.

4 The learned Advocate for the applicants submitted, that no prudent person can believe allegations about administration of poison by the applicants to their son-in-law. A false report has been lodged with an intention to teach lesson and to pressurize their daughter, who is the wife of informant. Further, the falsity in the allegations can be seen, that how three persons could have overpowered a male person. Age of the present applicants is 52 and 44 years respectively. In fact, the informant is now discharged. He used his political connections and got himself admitted in the hospital for 2-3 days. In fact, the daughter of the present applicants had

lodged report against informant and her in-laws vide Crime No.356/2020 on 28.08.2020 for the offence punishable under Section 354-A, 323 read with Section 34 of the Indian Penal Code. Custodial interrogation of the applicants is at all not necessary. Further, the arrest of the applicant No.1 would create hurdle in his service. He is Assistant Teacher with Nagnath Vidyalaya, Aundha, Dist. Hingoli. He has been felicitated by various organizations for taking part in various programmes for teachers and students. The applicant No.1 has undergone coronary angiography in 2016 and he is still under medication. He and his wife deserves to be released on anticipatory bail.

5 Per contra, the learned APP strongly opposed the application and submitted that medical report of the informant discloses that poisonous substance was administered to him. The said poisonous substance was in fact brought by applicant No.1 and then it was given to applicant No.2 for administration, when the applicant No.1 and their son had caught hold of the informant. The box containing said substance is yet to be recovered. The applicants along with their son are absconding and the investigation is still incomplete.

6 Though it may sounds strange that the father-in-law and mother-in-law would administer poisonous substance to son-in-law, yet, we are

required to consider the facts of the case, evidence collected uptill now. The story in the FIR is already narrated, and therefore, it is not repeated. But the FIR clearly shows about the act played by each of the accused persons. The panchnama of the spot has been executed, but at that time it appears that nothing has been seized. Statements of witnesses have been recorded. The neighbouring witnesses and relatives are stating, that they had seen the present applicants and son going inside the house of the informant. So also the neighbouring lady says, that she had seen the accused persons going out of the house of the informant. She had gone inside the house of the informant and found the informant lying on the ground. It is stated, that the first disclosure about the incident has been made to her by the informant and she specifically states about the fact that wife of the informant, who is the daughter of the present applicants, had made arrangements to take husband to hospital. Statement of other witnesses also show about the disclosure of the incident to them either by the wife of the informant or by other relatives. Another important fact, that is required to be seen is, that statement of the wife of the informant has also been recorded and she states, that there was dispute between her and the informant at night time on 21.08.2020. She states that her husband and mother-in-law had assaulted her. Thereafter, on the next day there was again dispute between herself and her husband, when the husband had made demand to bring Rs.20,00,000/- for purchasing flat.

She says that she was assaulted by the informant. She has disclosed the said incident to her parents and sister. She then says, that her mother and brother came on motorcycle to her house. There was then altercation between them, but then she says that one Laxman Aade i.e. uncle of the informant, Dinesh Aade and Arjun Aade came and poison was administered to her husband. This statement has been recorded on 26.08.2020. Thereafter, it appears that on 28.08.2020 she has lodged FIR against husband, father-in-law and mother-in-law for the offence punishable under Section 354A, 323, r/w. 34 of Indian Penal Code. Thus, it can be seen, that the wife of the informant is giving a different story. The Medico Legal Certificate issued on 22.08.2020 states, that there were no visible injuries. Alleged history of O.P poisoning is mentioned. This certificate has been given by Medical Officer, Rural Hospital, Jintur, but then the said medical certificate states, that the patient was referred to Government Hospital, Parbhani. The certificate of Government Hospital, Parbhani has not been made available. Under such circumstance, now there appears to be marital discord different versions are coming. Interesting point to be noted is, that present FIR has been lodged on 23.08.2020 and in the FIR lodged by the wife of the informant on 28.08.2020 against the present informant and his parents, she states that the incident had taken place on 22.08.2020. Her FIR is silent on the point of the incident dated 23.08.2020. There is also no mention about recording of her

statement in connection with the FIR lodged by her husband on 26.08.2020. There is no reason assigned for her belated FIR in her FIR dated 28.08.2020, when she had the opportunity to lodge it at least on 26.08.2020, when police were recording her statement. Therefore, even at this stage it can be said that the said FIR lodged by her appears to be concocted and with some ulterior motive. Applicants cannot use that FIR as shield for getting pre-arrest bail. There is prima facie evidence collected against applicants. Now, considering the allegations, definitely investigation is required, and therefore, this is not a fit case where anticipatory bail should be granted. Hence, it is rejected.

(Smt. Vibha Kankanwadi, J.)

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