

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.415 OF 2020

1. Mangesh Arjun Bhosale,

2. Jaee Arjun Bhosale

Applicants

versus

The State of Maharashtra

Respondent

Mr.Aniket Nikam i/by Vivek N. Arote for applicants.

Mr.M.G.Patil, APP, for State.

Mr.Raju R. Thubal, API, Chinchwad Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 24<sup>th</sup> February 2020

PC :

1. The applicants are seeking anticipatory bail in CR No.22 of 2020 registered with Chinchwad Police Station for offences u/s 498A, 406, 377, 294, 323, 504, 506 r/w 34l of Indian Penal Code.

2. The prosecution case is that the marriage between the complainant and applicant no.1 was solemnized on 26<sup>th</sup> February 2019. It is alleged that at the time of marriage the accused had demanded gold ornaments and other articles. The complainant was abused. She was harassed. Applicant no.1 had subjected her to unnatural sex. The FIR was lodged on 22<sup>nd</sup> January 2020.

3. The applicants had preferred application for anticipatory bail before Sessions Court. The said application was rejected by order dated 10<sup>th</sup> February 2020. The other accused were granted protection u/s 438 of Cr.PC..

4. The applicant no.1 is the husband and applicant no.2 is mother-in-law of the complainant. The other accused were two sisters of applicant no.1 and their father.

5. Learned counsel for applicants submitted that the complainant had hardly stayed in the matrimonial home. The marriage was solemnized in February-2019 and the FIR was registered on 22<sup>nd</sup> January 2020. It is submitted that prior to lodging the FIR, the complainant had forwarded the complaint to Chinchwad Police Station. In the said complaint there are no allegations of alleged unnatural sex referred to in the FIR. The FIR has been lodged on account of matrimonial differences and custodial interrogation of applicants is not necessary.

6. Learned APP submitted that the FIR contains allegations of subjecting the victim to unnatural sex. Several articles presented to the applicants during the marriage, are to be recovered during the course of investigation. The statement of mediator was recorded on 23<sup>rd</sup> January 2020 in which he has stated that the complainant has narrated to him the harassment caused to the complainant by the accused. The said statement also refers to obscene film being shown to the complainant and subjecting her to unnatural sex. It is further submitted that the mobile phone of the applicant no.1 in which the alleged obscene film was being shown to the complainant is to be recovered. He further submitted that the statement of the doctor is recorded on 28<sup>th</sup> January 2020, who had examined the complainant in March-2019 when she had complained about unnatural sex and that she had noticed some injuries. He further submitted that the complainant was also examined at Sasoon Hospital and in the

medical case papers it is stated that from history and examination possibility of anal penetration and vaginal penetration cannot be ruled out without any physical body surface injury.

7. From investigation papers it is apparent that substantial investigation is being conducted by police without subjecting the applicants to custody. The complainant had forwarded the complaint to Chinchwad Police Station dated 26<sup>th</sup> July 2019. According to the complainant she was subjected to unnatural sex in March-2019. However, in the complaint dated 26<sup>th</sup> July 2019 there is no reference of any obscene picture in the mobile phone being shown to her or that she was subjected to unnatural sex. Apparently there are matrimonial differences between the parties. The statement of doctor who had allegedly examined the complainant in March-2019 has been recorded. The said doctor had purportedly examined the victim when she had complained about unnatural sex. The medical case papers with reference to medico-legal examination of the complainant states that she was examined on 27<sup>th</sup> January 2020. However, the documents do not refer any injuries on the person of victim. The case, however, mentions that from history and clinical examination, possibility of anal penetration and vaginal penetration cannot be ruled out without physical body surface injury. The statements of witnesses are recorded. In the facts of the case, custodial interrogation of the applicant is not warranted.

8. Hence, I pass following order :

**ORDER**

(i) Criminal Anticipatory Bail Application No.415 of 2020 is allowed and disposed of;

- (ii) In the event of arrest of applicants in connection with CR No.22 of 2020 registered with Chinchwad Police Station, the applicants be released on bail on furnishing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall attend the Investigating Officer on 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> March 2020 between 11 am and 1 pm and thereafter as and when called till filing of charge sheet;
- (iv) The applicants shall co-operate with the investigation. They shall co-operate for search, if any, conducted by police as a part of investigation;
- (v) The mobile phone of applicant no.1 be handed over to the Investigating Officer for the purpose of investigation.

(PRAKASH D. NAIK, J.)

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