

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION (ABA) NO.43/2020

Kapil Satishchandra Agrawal and ors

..VS..

State of Mah., thr. PSO PS Khadan, Akola

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

Court's or Judge's Order

.....
Shri N.B.Narwade, Counsel for Applicants.
Shri N.R.Rode, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.

DATED : FEBRUARY 3, 2020.

1. Heard learned counsel Shri N.B.Narwade for applicants and learned Additional Public Prosecutor Shri N.R.Rode for the State. Also, perused reply filed on behalf of the State.

2. Applicants are apprehending their arrest in connection with Crime No.708/2019 registered with Khadan Police Station, Akola for offences punishable under Sections 498-A, 323, 342, 377, 420, 504, and 506 read with Section 34 of the Indian Penal Code.

3. Complaint was lodged by victim herself on 24.12.2019 which was culminated into registration of offences. From report, it is clear that prior to her marriage with Pankaj Kantilal Bafana, surname of victim was Dange. As per the First Information Report, her marriage was performed with Pankaj Kantilal Bafana, as suggested by co-accused Vijay Bonde, who was in her

.....2/-

relations, on 20.6.2017 at Agrasen Bhawan, Akola. After the marriage, she went to her matrimonial place at Pathardi of District Ahmednagar. It is alleged in the report that from the next day victim's husband i.e. co-accused Pankaj started giving physical as well as mental torture to her. It is very specifically alleged that on 21.6.2017 he performed unnatural sex against her wish. When the said act of anal sex was opposed by victim, as per the First Information Report, co-accused Pankaj, her husband, disclosed that he has purchased her by giving Rs.5.00 lacs to her maternal uncle Vijay Bonde, the co-accused. The First Information Report further states that in that behalf when victim made enquiries with her sister-in-law Vanita, she also confirmed the said fact. It was also confirmed by another sister-in-law Varsha. Both sister-in-laws asked victim that she should act according to whims of her husband. The First Information Report further states that when the said was disclosed by her to her maternal uncle Vijay Bonde/co-accused, that time as per the First Information Report, he disclosed that after her there are sisters to her and he has obtained money from her husband. It is also stated in the First Information Report that she got information that her maternal uncle and her husband met in a jail. It is also stated in the First Information Report that due to ill-treatment on the part of her husband she came to Akola and started residing with her parents. That that her maternal uncle Vijay Bonde and her husband came and they executed a bond and, thereafter, she again resumed co-habitation with her husband. The First

Information Report further states that after one day of the co-habitation, her husband again started ill-treating her. He used to put ash on her body on full moon day and no moon day. He also used to call his friends in house and used to do party. It is also stated that he used to call his friends one Pawar and Khedkar. They also assaulted her. It is stated in the First Information Report that present applicants used to instigate her husband.

4. A supplementary statement of victim was also recorded. Even, in the said statement role attributed to present applicants is that on their instigation her husband used to use abusive words. Except this, learned Additional Public Prosecutor Shri N.R.Rode for the State could not point out anything against present applicants.

5. All allegations are against the husband of victim and her maternal uncle and allegations against present applicants are of instigation. However, from investigation papers it is clear that her husband has not committed offence of unnatural sex on instigation of present applicants.

6. In view of nature of accusations made against applicants, in my view, their custodial presence is not necessary. However, at the same time interest of the prosecution can be secured by imposing certain conditions on them. That leads me to pass following order:

ORDER

(1) The criminal application is allowed.

(2) In the event of arrest of applicant No.1 Kapil Satishchandra Agrawal; applicant No.2 Abhijit s/o Rajendra Chaunapure; applicant No.3 Shankar s/o Shridhar Raut, and applicant No.4 Somnath s/o Shashikant Rodi, in connection with Crime No.708/2019 registered with Khadan Police Station, Akola for offences punishable under Sections 498-A, 323, 342, 377, 420, 504, and 506 read with Section 34 of the Indian Penal Code, they be released on bail on they executing a P.R.Bond in the sum of Rs.25,000/- by each of them with one solvent surety of the like amount by each of them.

(3) Applicants are directed to attend the police station twice a week i.e. on Friday and Sunday and shall be with Investigating Officer from 11:00 a.m. to 5:00 p.m., till filing of chargesheet.

(4) After filing of chargesheet, applicants shall attend the police station once in a month, till culmination of Trial.

With this, the criminal application is disposed of accordingly.

JUDGE

!! BRW !!

...../-