

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.26 OF 2021

Kanta w/o Subhash Marathe = **APPLICANT**

VERSUS

The State of Maharashtra = **RESPONDENT/S**

Mr.Ashpak Patel, Adv. h/for Mr. AP Avhad, Advocate
for Applicant;

Mr.NT Bhagat, APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI, J.

DATE : 21st January, 2021.

PER COURT :-

1. Present applicant has been arrested in connection with CR No.660/2020 dated 31.8.2020 registered with Pathardi Police Station, District Ahmednagar, for the offences punishable under Sections 307, 498A, 324, 323, 504, 506 read with 34 of IPC. The applicant has filed the present application under Section 439 of Cr.P.C. for bail.

2. Heard Mr.Ashpak Patel, Adv. h/for Mr. A.P.Avhad for applicant and Mr.NT Bhagat, learned APP for State.

3. It has been vehemently submitted on behalf of the applicant that the information has been lodged by daughter-in-law of present applicant. It is based on suspicion. In fact,

counter FIR has been lodged, which has been registered as CR No.673/2020 against father, brother, mother and other relatives of the informant. Husband of present applicant was beaten by them and he had sustained fracture. He has undergone an operation due to the said incident. It is stated that even assuming the contents of the FIR as it is, the offences have not been made out as against the present applicant. There are no criminal antecedents of the present applicant and she being a lady, leniency be shown to her. There is delay of more than 48 hours in lodging the FIR, which is not explained by the informant. He, therefore, canvassed for releasing the applicant on bail.

4. Learned APP strongly opposed the application and submitted that investigation is still pending. The seriousness in the allegations can be seen that present applicant, who is mother-in-law, was harassing the daughter-in-law for illegal demand of Rs.10,00,000/- for purchasing a flat. The husband of the informant came at about 3.30 pm on 29.8.2020 under the influence of liquor and asked the informant to serve him food. She gave him food. But, then when she was trying to speak on mobile, the husband started abusing her. The present applicant and her husband came inside the house and saw that the informant was making to lie on ground by her husband and she was beaten with fists and kick blows. The present applicant started saying that they should look after the

informant as her activities have increased and, therefore, with the help of hot spoon, they had given burns on both the hands of the informant. The present applicant caught hold of hands of the informant. Her husband gave some poisonous substance in the hand of the husband of the informant and the husband of the informant had poured the substance in her mouth. She was required to inform the said fact to her relatives and then they made arrangements to take her to the hospital. She was taken to Primary Health Center at Tisgaon on motor-cycle and thereafter she was shifted to Shree Hospital, Tisgaon in the Intensive Care Unit (ICU). Her FIR has been taken when she was under the treatment in the ICU. If such is the brutality, then the applicant does not deserve any sympathy.

5. At the outset, the investigation of the crime is still pending. Though the incident is stated to have taken place on 29.8.2020; yet it appears that the informant was taking the treatment in ICU. The FIR came to be lodged on 31.8.2020. Whether the said delay is fatal or not will have to be decided by the concerned Court trying the offences after evidence is adduced. It cannot be taken into consideration as inordinate delay at this stage.

. Further, the applicant is harping upon the alleged counter FIR and the copy of the said FIR being CR No.673/2020, registered with Pathardi Police Station District Ahmednagar, has been made

available. It shows that it was lodged on 5.9.2020 for the offences punishable under Sections 452, 326, 324, 323, 143, 147, 148, 149, 504 and 506 of IPC and it is stated that it is in respect of the incident dated 30.8.2020. It cannot be taken as counter FIR for the simple reason that the incident in this case is dated 29.8.2020 and it is not arising out of the same set of transaction. Whatever submissions in respect of delay in lodging the FIR were made by the learned Advocate for the applicant, are equally applicable to the said FIR, i.e. CR No.673/2020. Therefore, merely because some other FIR is lodged, the present applicant cannot get an advantage.

. The informant is 22 years young lady, who is the daughter-in-law of the present applicant. Still it appears as per the allegations, that poisonous substance, i.e. pesticide was forcibly administered by husband of the informant in her mouth and at that time, the present applicant is stated to have caught hold of the hands of the informant. Further, prior to that, the applicant and her husband had given burns to the informant. Under such circumstance, when the investigation is pending and there appears to be now the enmity, this is not a fit case where the applicant should be released on bail. Hence, the Bail Application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE