

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 ANTICIPATORY BAIL APPLICATION NO.36 OF 2021

1]SHAIKH NAZIR SHAIKH ISAQ
2]SHAHANAZ W/O SHAIKH NAZIR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Deshmukh Sachin S.
APP for Respondents: V.M.Kagne
Adv.Mr.M.D.Narwadkar to assist A.PP.

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CORAM : MANGESH S. PATIL, J.
DATE : 25.02.2021

PC. :-

The parents in law of the informant are seeking bail in the event of their arrest in connection with the Crime registered at her instance being Crime No.516/2020 of Hingoli City Police Station for the offences punishable under Sections 307, 498A, 313, 323, 504, 506 read with Section 34 of the I.P.C.

2] Briefly stated, the allegations as can be discerned from the F.I.R. and the papers of the investigation are to the effect that the informant was married to the son of the applicants who is also a co-accused, in the year 2017. The couple begot a daughter in the year 2018. Since thereafter she was subjected to physical and mental torture *inter alia* insisting her to bring money from her parents. She was being taunted for giving birth to a girl. It is alleged that

even when she became pregnant second time, the applicants and the other accused started suspecting that in all probability she would give birth to a girl. When her husband was not present in the home, applicants and their other son started hurling abuses at her saying that she would give birth to a girl second time as well. When she tried to convince them, they assaulted her and in the process, the applicant mother-in-law pushed her due to which she fell on abdomen and suffered abortion in the hospital of Dr.Deshmukh on the very next day. It is then alleged that thereafter she was left at her parental house. In order to patch up the things, her brother and brother-in-law (husband of her sister) took her to the applicants' house on 30/11/2020 in the evening hours. It is alleged that the applicants alongwith their 2 sons assaulted her. The applicant mother-in-law poured kerosene on her person while the other accused caught hold her. When she raised alarm her brother and brother-in-law rescued her. The F.I.R. was lodged in the same night and the offence was registered.

3] The learned advocate for the applicants would submit that as far as allegation regarding causing abortion is concerned, there was some infirmity in the fetus and on medical advice the informant had undergone abortion.

4] So far as the incident dated 30/11/2020 is concerned, the learned advocate would submit that an imaginary story is being built up. It is improbable that even her brother and brother-in-law could have been present. In all probability, they have stage managed the incident and falsely implicated the applicants. The fact that even the F.I.R. was lodged promptly hints at the element of concoction. The husband and the brother-in-law of the informant have already been arrested and have been released on regular bail. The

applicants are the parents-in-law. They are aged. Only with some ulterior motive that they are being now implicated just to see that they go behind the bars. Their custodial interrogation is not necessary and they may be granted anticipatory bail.

5] The learned A.P.P. assisted by the learned advocate for informant strongly opposes the application. He submits that as far as the episode of abortion is concerned, medical papers recovered by the Investigating Officer from the hospital of Dr.Deshmukh and particularly the Sonography report would indicate that in the month of May condition of the informant was normal and she missed abortion which can be seen from the second report of Sonography. He would further submit that the very fact that the mother-in-law pushed the informant, there is every room to believe that, she had done so with an object to somehow cause abortion and could manage to push the informant to fall on the abdomen.

6] As far as second episode is concerned, the learned A.P.P. would point out that the F.I.R. has been lodged promptly. There was a spot panchanama which indicates presence of an uncapped plastic bottle containing kerosene, the cap lying by the side. The broken bangle pieces were found at the spot. The clothes of the informant which were seized as well as that of her husband smelt of kerosene as can be seen from the seizure memo. Even there is medical record showing that the informant did sustain some injury which is further corroborated by her photographs in the injured condition showing the injury sustained by her. He would further submit that the statements of the brother and brother-in-law have also been recorded under Sections 161 and 164 of Cr.P.C., which *prima facie* corroborate the prosecution version about

occurrence of the incident on 30/11/2020. Considering the role attributable to the applicants, their custodial interrogation is also necessary. The offence is serious and the application be rejected.

7] I have carefully gone through the papers of the investigation. As far as the allegations regarding causing abortion, to attract offence punishable under Section 313 of I.P.C. is concerned, though there is medical record seized from the hospital of Dr.Deshmukh apparently no statement of the Doctor has been recorded so as to draw an inference, by referring report of Sonography, about abortion having been caused accidentally.

8] However, as far as episode dated 30/11/2020 is concerned, the F.I.R. was lodged promptly after occurrence of the incident. The spot panchanama and the seizure memo of the clothes of the informant and her husband corroborate her version about an attempt having been made by the applicants and the other 2 accused to set her on fire by pouring kerosene on her person. There is a medical evidence to show that she had sustained some injury in the process as well. At this stage this much of material is sufficient to conclude that the applicants did play an active role in trying to kill the informant by pouring kerosene. The allegations are precise and specific. The informant alleges that the mother-in-law brought a kerosene can and poured kerosene on her person, whereas the other 3 accused had grabbed her.

9] In view of such a material available on the record, the applicants are not entitled to anticipatory bail.

10] The Application is rejected.

[MANGESH S. PATIL, J.]

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