

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

ANTICIPATORY BAIL APPLICATION NO. 73 OF 2021

- 1) Sudarshan Bhalchandra Chavan,
Age 31 years, Occ. Service.
- 2) Bhalchandra Amarsing Chavan,
Age 58 years, Occ. Service.
- 3) Ritesh Bhalchandra Chavan,
Age 30 years, Occ. Service.
- 4) Anita Bhalchandra Chavan,
Age 54 years, Occ. Household.
All r/o. Building No. 1, Room 502,
Sunder Complex, Gauri Pada, Talav
Road, Kalyan (W) Dist. Thane.
- 5) Namobai Dharmraj Jadhav (Rathod)
Age 55 years, Occ. Household,
R/o. Navin Naka, Hirapur Road,
Chalishaon, Tq. Chalishaon,
District Jalgaon. ... **Applicants.**

VERSUS

- 1) The State of Maharashtra,
Through Raver Police Station,
Tq. Raver, Distrcit Jalgaon.
- 2) The Superintendent of Police,
Jalgaon, District Jalgaon. ... **Respondents.**

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Advocate for the Applicants : Mr. K.C. Sant.
APP for the Respondents/State : Mr. V.S. Badakh.
Advocate for Assist to APP : Mr. H.P. Randhir.

CORAM : MANGESH S. PATIL, J.

DATE : 18.02.2021.

PER COURT :

The applicants are apprehending that they would be arrested in

connection with Crime No. 195/2020, registered with Raver Police Station District Jalgaon for the offences punishable under Section 420, 406, 504, 507 read with Section 34 of the Indian Penal Code and under Section 4 of the Dowry Prohibition Act are seeking bail under Section 438 of the Code of Criminal Procedure.

2. The F.I.R. has been lodged by the father of the bride alleging that after due deliberation and talks marriage was fixed between his daughter and the applicant No. 1. Formal engagement ceremony took place on 03.11.2019. It is alleged that huge money was spent by the informant during that function and even gold ornaments were gifted to the bridegroom. The date of marriage was fixed as 02.05.2020. However, due to pandemic situation the marriage was postponed. On 08.10.2020 the applicant No. 2 telephonically demanded an amount of Rs. 10 lakh as dowry else declared that the marriage could not be gone ahead. In spite of lot of persuasion the applicants refused to go ahead with the marriage and thus have committed the aforementioned offences.

3. The learned advocate for the applicants would submit that as can be seen from the F.I.R., the bride and bridegroom were in constant touch with each other and finding that they were not compatible had decided to call off the marriage. It is now being pretended that there was a demand of dowry and the applicants have misappropriated the gold ornaments and have cheated the family of the informant.

4. The learned advocate would submit that none of the ingredients of the offences being levelled can be made out. They were enjoying ad interim protection when their application for anticipatory bail was pending before the Sessions Court at Bhusawal. Even this Court has granted them ad interim anticipatory bail. Pursuant to the condition they also attended the concerned police station on 16.02.2021 and produced a gold chain and a gold ring worth Rs. 72,000/-. Nothing remains to be recovered from them.

They are ready to cooperate the Investigating Officer even hereafter. Their custodial interrogation is not necessary. They are ready to abide by any condition and the ad interim relief may be confirmed.

5. The learned A.P.P. assisted by the learned advocate for the original informant strongly opposes the application. He submits that the matter is serious. It is a matter of demand of dowry which itself is an offence. The applicants failed to cooperate the Investigating Officer and did not attend the police station in spite of intimation. The marriage was called off under some pretext and even the gold ornaments have been appropriated. All the ingredients for the offence of cheating, misappropriation and demand of dowry can easily be made out. Custodial interrogation of the applicants is therefore necessary and the application be rejected.

6. I have carefully gone through the papers. It stands admitted that ring ceremony had been taken place on 03.11.2019 and the marriage was to be performed on 02.05.2020 but because of pandemic the date was postponed. It is thereafter that in the month of October, it is being alleged, that there was demand of dowry, which was made by the applicant No. 2 telephonically.

7. Without indulging into making any observations touching the merits of the allegations and the counter allegations it would be appropriate to observe that *prima facie* there are no allegations that since inception the applicants were not intending to go ahead with the marriage. It is a necessary ingredient for constituting the offence of cheating.

8. As far as misappropriation is concerned, the learned advocate for the applicants has tendered across the Bar a copy of the seizure memo prepared by the Investigating Officer where under a gold chain weighing 10 grams and a ring weighing 5 grams total worth Rs. 72,000/- has been produced by the applicants and seized by the Investigating Officer. It appears that the apprehension is expressed by the Investigating Officer that the applicants

would not obey the terms and conditions as they have failed to attend the police station in his report dated 15.02.2021. It is thereafter that the seizure memo seems to have been prepared on 16.02.2021 meaning thereby that the applicants must have attended the concerned police station on 16.02.2021.

9. As far as demand for dowry is concerned, the Investigating officer for the reason best known to him has not been able to trace the CDR or the telephonic conversation.

10. Considering all the aforementioned facts and circumstances, the ad interim relief deserves to be confirmed with the same terms and conditions.

11. The Application is allowed. Ad interim relief granted by the order dated 02.02.2021 stands confirmed with the same terms and conditions with following modification :

(a) The applicants shall attend the concerned police station on three consecutive Saturdays starting from 20.02.2021 between 11 a.m. and 1 p.m. and shall cooperate the Investigating Officer.

(b) They shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

mkd/-