

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

ANTICIPATORY BAIL APPLICATION NO.191 OF 2021

SARIKA MURLIDHAR CHOLE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Ashwin V. Sakolkar h/f. Mr. V.G. Sakolkar
APP for Respondent/State: Mrs. R.P. Gaur

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**WITH
ANTICIPATORY BAIL APPLICATION NO.144 OF 2021**

- 1] VYANKATRAO S/O. BABURAO DHULE
- 2] SUREKHA W/O. VYANKATRAO DHULE
- 3] VINODKUMAR S/O. VYANKATRAO DHULE
- 4] AKSHAYKUMAR S/O. VYANKATRAO DHULE
- 5] SWATI W/O. VINODKUMAR DHULE

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Advocate for Applicant : Mr. T.M. Venjane
APP for Respondent/State: Mr. P.G. Borade

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CORAM : MANGESH S. PATIL, J.

DATE : 02.03.2021

PER COURT :

These are the applications under Section 438 of the Code of Criminal Procedure as the applicants are apprehending their arrest in connection with Crime No.22/2021 registered with Shirur Anantpal Police Station, District Latur for the offence punishable under Sections 307, 420, 498-A, 323, 506 and 120-B read with Section 34 of the Indian Penal Code.

2. In substance the allegations in the FIR lodged by the daughter-in-law of the applicants Vyankatrao Baburao Dhule and Surekha Vyankatrao Dhule are to the effect that she was married to their son, who is also a co-

accused, on 24.05.2020. After initial peaceful period of around a fortnight all the in laws started taunting her on the ground that she was not able to cook properly. It is alleged that the husband was having illicit affair with the applicant in ABA No.191/2021 since before marriage. The husband started insisting that she should connive in such illicit relation and should not raise any objection. When she tried to persuade him he threatened to commit suicide and even made an attempt to kill her by throttling her. It is alleged that all the applicants and the other accused were aware about husband's such illicit relation since before this marriage but fraudulently and dishonestly without disclosing it to her she was made to marry him. Accordingly the offence was registered for the aforementioned sections.

3. The learned advocate for the applicants in ABA No.144/2021 would submit that the allegations as regards the attempt to kill are only against the husband.

4. As far as the offence of treating the informant with cruelty, except a bald and vague allegations about they having taunted her for not being able to cook properly, there are no allegations about they having actively subjected her to any physical or mental cruelty. The applicant Nos. 1 and 3 are in government employment and if they are allowed to be arrested without assurance of bail it is likely to adversely affect their employment. The other two applicants being the mother-in-law and the wife of the brother-in-law, no specific and precise role is attributable to them and being women they are entitled to anticipatory bail. He would further point out that the Application to the extent of husband who is applicant No.4 stands disposed of as withdrawn by the order dated 17.02.2021.

5. The learned advocate for the applicant in ABA No.191/2021 would submit that accepting the allegations in the FIR at their face value she cannot be allowed to be arrested for any of the offence mentioned above. She cannot be said to be a relative of the husband nor are there any allegations about she having deceived the informant in performing the marriage. So far as allegations under Section 307 are concerned those being

against the husband she is entitled to anticipatory bail.

6. The learned APPs strongly oppose the Applications. They submit that the offence is serious and is at the stage of investigation. There is enough material to reveal that apart from the husband even his relatives were aware about his illicit relations since before her marriage. They having not disclosed it, there is *prima facie* substance to attribute them with having cheated the informant in solemnizing the marriage. They would, therefore, submit that none of the applicants is entitled to bail.

7. I have carefully gone through the papers. So far as applicant in ABA No.191/2021 is concerned she is stated to be having illicit relation with the husband of the informant since before the marriage. However, she not being his relative she cannot be an accused in an offence punishable under Section 498-A of the Indian Penal Code.

8. There are no allegations about she having deceived the informant in solemnizing the marriage. The allegation, as is pointed out, as regards attempt to kill the informant are against the husband. Consequently, she is entitled to anticipatory bail.

9. So far as the applicants from ABA No.144/2021 are concerned, though the allegations as regards Section 307 of the Indian Penal Code are only against the husband, there is enough material and sufficient allegations to show that all these applicants were aware about the illicit relations of the husband of the informant since before the marriage was solemnized. Obviously, there is an element of cheating the informant in persuading her to solemnize the marriage.

10. If this is so, even if the offence punishable under Section 307 of the Indian Penal Code is ignored, custodial interrogation of the applicants seems to be imperative.

11. However, since the applicants Nos. 2 and 5 are women i.e. mother-in-law and the wife of the brother-in-law, it would be appropriate to grant them anticipatory bail.

12. The ABA No.144/2021 is partly allowed. The ABA

No.191/2021 is allowed. In the event of arrest of the Applicant No.2 - SUREKHA W/O. VYANKATRAO DHULE and Applicant No.5 - SWATI W/O. VINODKUMAR DHULE and the Applicant SARIKA MURLIDHAR CHOLE in ABA No.191/2021 in connection with Crime No.22/2021 registered with Shirur Anantpal Police Station, District Latur for the offence punishable under Sections 307, 420, 498-A, 323, 506 and 120-B read with Section 34 of the Indian Penal Code, they shall be released on bail on their executing personal recognizance for an amount of Rs.15,000/- (Fifteen Thousand only) each and furnishing a solvent surety in the like amount each subject to following conditions :

- a) They shall attend the concerned Police Station as and when called by the Investigating Officer and shall cooperate him.
- b) They shall not tamper the evidence or influence the witnesses in any manner.

13. The ABA No.144/2021 is rejected to the extent of applicant No.1 - Vyankatrao Baburao Dhule and applicant No.3- Vinodkumar Vyankatrao Dhule.

(MANGESH S. PATIL, J.)