

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

6 ANTICIPATORY BAIL APPLICATION NO.411 OF 2021

- 1) Rajkiran s/o Dattatrya Malve,
- 2) Chandrakala w/o Dattatrya Malve,
- 3) Maya w/o Prashant Suryawanshi. ...Applicants.

VERSUS

The State of Maharashtra ...Respondent

...

Mr. Shaikh Mazhar A.Jahagirdar, Counsel for applicant

Mr. A.S.Shinde, APP for respondent-State

...

CORAM : PRAKASH D. NAIK, J.

DATE : 06th DECEMBER, 2021

PER COURT:

1] Applicants are seeking pre-arrest bail in Crime No.171 of 2021 registered with Shrirampur Police Station, Dist.Ahmednagar for the offences under Sections 406, 498(A), 354, 324, 323, 504 and 506 read with 34 of Indian Penal Code (for short, 'IPC').

2] Applicant No.1 is the husband of complainant. Applicant No.2 is the mother-in-law and applicant No.3 is the sister-in-law of the complainant.

3] Marriage between the complainant and the applicant No.1 was solemnized on 15th May, 2010. After the marriage, the complainant cohabited with the applicant No.1. There are three children out of the wedlock. It is alleged that the complainant was harassed by the accused. They were suspecting her character. She was forced to undergo DNA

Test. There was demand of dowry. The complainant was assaulted and abused. The *Stridhan* of the complainant misappropriated by the accused.

4] The applicants were granted interim protection by this Court vide order dated 22nd April, 2021. In the said order, it was observed that prima facie custodial interrogation of the applicants is not necessary. Interim protection was granted to them on the condition that they shall not interfere in the investigation and co-operate the Investigating Officer. They shall not pressurize the witnesses. The interim protection is in operation till today. There is no breach of condition.

5] Learned Counsel for the applicants submitted that the allegations in the FIR are false. The complainant has left the matrimonial home. She is residing with her parents. The applicant No.1 had forwarded notice through his Advocate to the complainant on 8th February, 2021 intimating that she should join matrimonial home and cohabit with applicant No.1 on assurance that she would behave properly. The complainant had assaulted minor son, which is evident from injury certificate annexed to this application. The complainant had also filed proceedings for the custody of the children and the said application is rejected. All the three children are in custody of the applicants.

6] Learned App submitted that there was demand of dowry. There was harassment, abuses and illtreatment resulting in cruelty to complainant. *Stridhan* was retained by accused. She was forced to undergo DNA test. The applicants are not entitled for anticipatory bail.

7] The applicants and the other accused preferred an application for anticipatory bail before the Sessions Court. The relief was refused to the applicants, however, it was granted to the other accused.

8] On perusal of the FIR and the other documents, it is apparent that the marriage between the parties was solemnized on 10th May, 2010. There are three children out of wedlock. The applicant No.1 had forwarded legal notice to the complainant. It appears that the complainant is presently residing at her parental home. The custody of the minor children is with the applicant No.1 and his parents. The father-in-law, against whom allegations invoking Section 354 of IPC were made has been granted anticipatory bail by the Sessions Court. FIR was lodged implicating several persons. Looking to the nature of the dispute, the applicants need not be subjected to custodial interrogation. Hence, I pass the following order.

ORDER

- (i) Anticipatory Bail Application No.411 of 2021 is allowed.

- (ii) In the event of arrest of applicants in connection with Crime No.0171 of 2021 registered with Shrirampur Police Station, Dist.Ahmednagar, the applicants be released on bail on executing P.R.Bond in the sum of Rs.20,000/- each, with one or two sureties in the like amount.
- (iii) Applicants shall report Investigating Officer on 13th, 14th and 15th December, 2021 at 11.00 am to 01.00 pm and thereafter, as and when called for, till filing of charge-sheet.
- (iv) Application stands disposed of.

(PRAKASH D. NAIK, J.)

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