

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 471 OF 2021

1. Pralhad s/o Maruti Avhad,
Age : 45 years, Occu. Agri.,
R/o Village Chinchondi,
Tal. Pathardi, Dist. Ahmednagar

2. Rohidas s/o Gopinath Avhad,
Age : 40 years, Occu. Agri.,
R/o Village Chinchondi,
Tal. Pathardi, Dist. Ahmednagar

APPLICANTS

VERSUS

The State of Maharashtra,
through Incharge Officer,
Police Station, Pathardi,
Tal. Pathardi, Dist. Ahmednagar

RESPONDENT

Mr. Sandip R. Andhale, Advocate for the applicants
Smt. R.P. Gaur, A.P.P. for the respondent/State
Mr. Shaikh Ashraf Patel, Advocate to assist the A.P.P.

CORAM : MANGESH S. PATIL, J.

DATE : 15.06.2021

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure by the maternal uncles of the husband of the victim, apprehending their arrest in connection with Crime No.191/2021 registered with Pathardi Police Station, District Ahmednagar for the offences punishable under Sections 307, 498-A, 323, 504, 506 of the Indian Penal Code.

2. Shortly stated, the allegations are to the effect that the informant had solemnized marriage with Gorakshnath three years prior to the incident. The couple had begotten a child. However, they could not pull on well. A matrimonial dispute arose after the husband and his relatives started insisting her to fetch money. On account of such matrimonial dispute, she had gone back to her parental house about a year prior to the incident and was staying with her parents.

3. It is then alleged that on 03.04.2021, she alongwith her father had been to the dairy where the present applicants were working. When they told the applicants that it was difficult for them to arrange for the money and the applicants should take steps to resume cohabitation between the couple, the applicants are stated to have made an attempt to forcibly administer some poison to the informant. She was shifted to a hospital and the FIR was lodged on 06.03.2021.

4. The learned Advocate for the applicants would submit that the allegations in the FIR are concocted and distorted. In fact, the informant is a short-tempered lady and has made an attempt to kill herself by consuming poison. The applicants themselves reported the matter to the police by a written communication promptly on the same day and its copy is annexed to the application. It is only by way of an afterthought a concocted version is made and the FIR is lodged belatedly. The learned Advocate would further

point out that even earlier, the informant had made several attempts to kill herself. It is only after she undertook in writing not to indulge in such steps that the marital relations were allowed to be resumed. The learned Advocate would further submit that the applicants have been protected by the order dated 11.05.2021 and have attended the concerned Police Station as per the terms and conditions imposed. Their custodial interrogation is not necessary. They are ready to cooperate the Investigating Officer and ad-interim relief may be confirmed.

5. The learned A.P.P., assisted by the learned Advocate for the informant, strongly opposes the application. She submits that the offence is serious. At this juncture, there is nothing to disbelieve the version in the FIR. There is a plausible explanation for the delay in lodging the FIR. The informant was promptly taken to the hospital for medical treatment. While undergoing the treatment, she specifically narrated the history about the applicants having administered poison to her. Such a disclosure was prompt. It is only because she was undergoing the medical treatment that there was a delay in lodging the FIR. The learned A.P.P. would submit that there are statements of the eye witnesses. The bottle of the poison is to be recovered and for that purpose, custodial interrogation of the applicants is necessary.

6. Lastly, the learned A.P.P. would submit that even after the incident, the applicants and their other relatives have threatened her about which a non-cognizable report has been registered. There is every possibility

of applicants creating obstruction in completing the investigation and the application be rejected.

7. I have carefully gone through the papers of investigation and the papers produced with the application.

8. Apart from the matrimonial dispute, the immediate cause for registration of the crime seems to be the alleged incident dated 03.04.2021. It is the version in the FIR that the informant alongwith her father had been to the dairy where the applicants were present. They expressed their inability to meet the demand for money and insisted the applicants to take steps for resumption of the matrimonial relations. It is then alleged that the incident has taken place thereafter when the applicants are stated to have assaulted her father and then made an attempt to administer her insecticide forcibly.

9. True it is that apparently the informant was taken to the hospital and was undergoing treatment for the suspected poisoning, which could have caused some delay in lodging the FIR and no inference can be drawn at this juncture on the ground that it was not lodged promptly.

10. However, simultaneously one cannot ignore the fact that even the applicants had promptly informed the concerned office of the Superintendent of Police as also the Police Inspector of the concerned police station about the informant herself having attempted to commit suicide by consuming poison. The papers of investigation do not reflect on this aspect.

The fact remains that the police machinery was promptly informed about the incident and could have independently commenced the enquiry instead of waiting for the offence to be registered, but that does not seem to be the case.

11. It is also a matter of record that even on earlier occasion, an attempt was made by the informant to kill herself, as a result of the matrimonial dispute. It is only after she undertook in writing not to indulge in such act that she was allowed to resume cohabitation.

12. True it is that there is a statement of an eye witness, who incidentally happens to be a close relative of the informant. However, her version about having witnessed the incident as a stranger is startling.

13. There does not seem to be any other independent witness to the incident, unrelated to the informant.

14. True it is also that a non-cognizable report seems to have been registered against the applicants at the instance of the father of the informant, but a similar non-cognizable report also stands registered against him at the instance of the present applicants subsequent to the alleged incident.

15. Considering all the aforementioned facts and circumstances, when there are no allegations about the applicants having not attended the

concerned police station or have not cooperated the Investigating Officer, the ad-interim relief deserves to be confirmed.

16. The application is allowed. The ad-interim anticipatory bail granted by the order dated 11.05.2021 stands confirmed with the same terms and conditions with the clarification that the condition as regards attendance would cease on submission of the chargesheet.

[MANGESH S. PATIL]
JUDGE

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