

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 624 of 2021

1. Baliram S/o. Punjaji Wankhede.
2. Haribai @ Sushila Baliram Wankhede
3. Sushila Satwa Waghmare

.. Applicants

versus

The State of Maharashtra

.. Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO. 625 OF 2021

1. Vitthal s/o. Rambhau Thombre
2. Sachin s/o. Vitthal Thombre
3. Shobhabai w/o. Vitthal Thombre
4. Nitin s/o. Vitthal Thombre.

.. Applicants.

Versus

The State of Maharashtra

.. Respondent

AND

ANTICIPATORY BAIL APPLICATION NO. 623 OF 2021

1. Shesherao S/o. Kisanrao Potfode
2. Lata w/o. Shesherao Potfode
3. Pramod s/o. Shesherao Potfode

.. Applicants

Versus

The State of Maharashtra

.. Respondent.

Mr. R.D. Khalap, Advocate for the applicants in ABA No. 624 of 2021
Mr. S.B. Solkanke, Advocate for the applicants in ABA No. 625 of 2021
Mr. M.S. Karad, Advocate for the applicants in ABA No. 623 of 2021
Mr. V.M. Kagne, APP for the respondent/State.

CORAM : V.G. BISHT, J.

DATE OF RESERVING ORDER : 17th August.2021.

DATE OF PRONOUNCING ORDER : 25th August, 2021.

PER COURT:

1] These are applications under Section 438 of Cr.P.C. preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No. 217 of 2021 registered with Pundlik Nagar Police Station, Aurangabad for the offences punishable under Sections 420, 120B, 498A, 292, 109 of IPC and Under Section 67(A) of the Information Technology Act.

2] The applicant No.1 is father-in-law, applicant No.2 is husband, applicant No.3 is mother-in-law and applicant No.4 is brother-in-law (Anticipatory Bail Application No. 625/21) of informant. The informant was married to said applicant no.2 on 2.8.2020. Rest of the applicants are relatives of applicant Nos. 1 to 4 (Anticipatory Bail Application No. 625/2021).

3] The prosecution alleges that on the day of marriage itself, the informant got a whatsapp message from unknown mobile number 7385677183 and so also, on her facebook. When she opened her facebook profile, she saw an unknown woman alongwith her husband in obscene/vulgar photographs. Again, on 3.8.2020, that unknown lady called her up and introduced herself as Hema and also told that she is in relation with her husband since 2013. When she confronted her husband and in-laws, they tried to persuade her. Her in-laws also asked her to bring Rs. 10,00,000/- from her father and reside separately with the applicant/husband.

4] According to the prosecution, on 4.8.2020, she called her parents and maternal uncle and narrated the whole incident and sensing that she has been cheated on, she left the matrimonial home alongwith her parents.

5] Mr. Solanke, learned counsel, and respective learned counsel appearing for the applicants in all matters, submitted that there are no allegations of ill-treatment and demand of monies, as far as the in-laws and husband of the informant is concerned. Similarly, since the remaining relatives had been present in the marriage ceremony they had been falsely implicated. There are no specific allegations against them. Moreover, this is not a kind of case, where the custodial interrogation is necessary, argued learned counsel. The learned counsel lastly submitted that there is huge delay in filing the FIR and, therefore, on this count also, the present applicants deserve to be given the benefit of pre-arrest bail.

6] Mr. Kagne, learned APP, on the other hand, would submit that there was specific demand of dowry and a false representation was made to the parents of the informant about the goodness of the applicant husband. There were earlier instances of similar nature also. In such circumstances, the present applications deserve to be rejected.

7] As far as the delay in lodging the FIR is concerned, I do find merit in the submission of the learned counsel for applicants. It is seen from the FIR itself that after two days of the marriage i.e. 4.8.2020, the informant left her matrimonial home and it is only on 21.5.2021, i.e. after five months of leaving the matrimonial home, she lodged the FIR against the applicants. No explanation, much less, satisfactory one is

given for such a huge delay.

8] This takes me to the submission of learned APP that there was a demand of dowry. But again, I don't find such specific demand from the contents of the FIR. What is contained in the FIR is that the in-laws had asked the informant to bring Rs.10 Lakhs from her parents so that she and her husband can live separately at Pune. Prima facie, this cannot be termed as an illegal demand of monies.

9] Lastly, reading the FIR as a whole, at the most it would show that prior to the marriage, the applicant husband was in some relation with a woman, by name Hema and nothing else. If the facts and circumstances of the present case are read as a whole, then, it is more than clear that the present case does not warrant custodial interrogation. In view of this, I am inclined to allow the applications. Hence the following order.

: O R D E R :

[I] The applications are allowed.

[II] Interim relief granted by this court on 25.6.2021, in Criminal Application Nos. 623/2021 and 624/2021 is confirmed and made absolute.

[III] In the event of arrest of the applicants in Criminal Application No.625 of 2021 in connection with Crime No.217 of 2021 registered with Pundlik Nagar Police Station, Aurangabad for the offences punishable under Sections 420, 120B, 498A, 292, 109 of IPC and Under Section 67(A) of the Information Technology Act, the applicants be enlarged on bail on their furnishing PR Bond in the sum of Rs. 20,000/- each, with one or two sureties in the like amount.

[iv] The applicants shall attend the concerned police station as and when called and shall cooperate with the investigation.

[v] They shall not tamper with the evidence or influence the witnesses.

[vi] The Criminal Application Nos. 1213 of 2021, 1214 of 2021 and 1215 of 2021 for permission to assist the prosecution, stand allowed and disposed of.

[vii] The applications for anticipatory bail stand disposed of in aforesaid terms.

[V.G. BISHT]
JUDGE.

grt/-