

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

ANTICIPATORY BAIL APPLICATION NO. 718 OF 2021

1. Sandip s/o Vasant Rao Mantre,
Age : 30 years, Occu. Medical Practitioner,
R/o. Someshwar Nagar, Jalalpur Road,
Parli Vajinath, Dist. Beed,
Now residing at PHC, Sakol,
Tq. Shirur-Anantpal, Dist. Latur.
2. Mandodhari w/o Vasant Mantre,
Age : 57 years, Occu. Household,
R/o. Someshwar Nagar, Jalalpur Road,
Tq. Parli Vajinath, Dist. Beed.
3. Vasant s/o Vitthal Rao Mantre,
Age : 63 years, Occu. Agri.,
R/o. Someshwar Nagar, Parali,
Tq. Parali, Dist. Beed.

...Applicants

Versus

The State of Maharashtra

...Respondent

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Mr. Rahul R. Karpe and Mr. S. D. Munde, Advocate for applicants
Mr. S. B. Narwade, APP for respondent / State
Mr. N. S. Kadam, Advocate to assist PP
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CORAM : V. G. BISHT, J.

DATE OF RESERVING THE ORDER : 08th September, 2021
DATE OF PRONOUNCING THE ORDER : 15th September, 2021

PER COURT : -

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No. 0094 of 2021, registered

with Parli (City) Police Station, District Beed, for the offences punishable under Sections 420, 500 of the Indian Penal Code.

2. It is the case of prosecution that the informant and applicant are relatives. According to prosecution, applicant - Sandip Mantre approached the informant and requested that he should lend him Rs. 7.00 lakhs for establishing a hospital and that he would marry his daughter. Applicant nos. 2 and 3 are the parents of applicant no. 1. On 23.09.2020, accordingly engagement ceremony took place. On 21.10.2020, the informant paid Rs. 7.00 lakhs to the applicant no. 1 in presence of witnesses and the date of marriage was fixed as 05.05.2021. However, prosecution alleges that, on 04.04.2021 applicant no. 1 sent a video clip on WhatsApp number of the informant that although he has been married the informant is pressurizing him to marry his daughter. Accordingly, the informant lodged FIR.

3. Mr. Rahul R. Karpe, learned Counsel for the applicant, submits that to attract rigor of Section 420 of the Indian Penal Code, there has to be a fraudulent and dishonest intention since inception and at the face of the allegations made in the complaint in question, no such case is made out. Learned Counsel also invited my attention to the Complaint (Exh. 'F') dated 17.03.2021 filed by the applicant

no. 1 with Police Inspector, Police Station at Shirur Anantpal alleging therein that since last six to seven months the informant is pressurizing him to marry his daughter. Despite that his daughter was not liked by the applicants, according to learned Counsel, it is only after lodging of this complaint, the FIR in question came to be lodged on 18.06.2021 i.e. after three months, without any explanation. Even otherwise, according to learned Counsel, there is no necessity of custodial interrogation and in such circumstances, the application deserves to be allowed.

4. Mr. S. B. Narwade, learned APP, on the other hand, would submit that there are statements of eye-witnesses in whose presence not only the engagement ceremony took place but cash amount of Rs.7.00 lakh was also given to the applicant. This being the case of cheating, the custodial interrogation of the applicant is necessary, argued learned APP.

5. Mr. N. S. Kadam, learned Counsel for respondent No. 2 – informant adopts the arguments advanced by learned APP.

6. Perused investigation papers. There are statements of relatives of informant, who have clearly stated before the Investigating Officer about the engagement ceremony and the amount

of Rs. 7.00 lakh given to the applicant by the informant. However, there is complaint of the applicant no. 1 also, which goes to show that after seeing the daughter of informant, it was conveyed to the informant that his daughter is not liked by him and despite that the informant was pressurizing the applicant no. 1 to marry his daughter. Having regard to the facts and circumstances of the case, in my considered opinion, *prima facie* there is no case of cheating.

7. I am not able to appreciate the request of the learned APP that the custodial interrogation is necessary. In the facts and circumstances of the case, adequate precaution is taken by this Court while granting interim relief to the applicants and in my considered opinion, that would suffice the purpose.

8. In view of above, I am inclined to allow the present application. Hence, the following order.

ORDER

- i] The application is allowed.
- ii] Interim relief granted by this Court on 08th July, 2021 is confirmed and made absolute.

[V. G. BISHT]
JUDGE