

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

5 ANTICIPATORY BAIL APPLICATION NO.762 OF 2021

Jamir Sheikh Abdul Sattar,
Age 32 years, Occ. Labour,
R/o. New Baijipura, Indira Nagar,
Aurangabad.

VERSUS

The State of Maharashtra,

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Mr. Chaitanya Deshpande, holding for Mr. Govind M.Sharma, learned
Advocate for the applicant
Mr. A.V. Deshmukh, learned A.P.P for the respondent-State

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CORAM : V.G. BISHT, J.

DATE : 9th AUGUST, 2021

PER COURT :

1. This is an application under Section 438 of the Code Criminal Procedure, 1973, preferred by the applicant-accused seeking grant of pre-arrest bail in connection with Crime No.302/2021 registered with Jinsi Police Station, Aurangabad for the offences punishable under Section 498-A, 354, 323, 504 and 506 read with Section 34 of the India Penal Code.

2. The prosecutrix alleges that after the birth of first child, her husband and in-laws started harassing, ill-treating and demanding her money. When, she expressed her inability to fulfill their demand, the

ill-treatment grew more. She further alleges that on 20.06.2021 at about 11.00 p.m., her mother-in-law and sister-in-law bet her and torn her clothes. Later on, the present applicant-accused entered into her room, caught-hold her left hand and attempted to make her lie on the cot. When she raised commotion, the applicant-accused ran away from the spot.

3. Mr.G.M.Sharma, learned counsel for the applicant submits, that the present applicant-accused has been falsely implicated in the crime. The present FIR came to be filed on the day, when a divorce petition came to be filed by the applicant's brother and as a counterblast to it, the present applicant-accused has been roped into the alleged offences. Moreover, according to the learned counsel there is a delay of 4 days in lodging the FIR, which is nowhere explained by the prosecutrix. The learned counsel then submitted that since the remaining accused have already been enlarged on bail, the present-accused also deserves to be enlarged on bail.

4. Per contra, Mr.A.V.Deshmukh, learned APP, invited my attention to the contents of the FIR and pointed out the specific allegations made against the present applicant-accused. According to the learned APP, not only the present applicant-accused had caught-hold of the left hand of the prosecutrix but also attempted to outrage her modesty by making her lie on the cot. In such circumstances, the applicant-accused should not

be enlarged on bail, argued learned APP.

5. By order dated 19.07.2021, this Court (*Coram: Sandeep K.Shinde, J.*) had admitted the applicant-accused on interim bail and had made certain observations regarding the sketch of the place of occurrence and had expressed its doubt. The learned APP had also sought time to produce the spot panchanama. Today, the spot panchanama has been produced before this Court along with statements of some of the witnesses. As far as the statement of witnesses are concerned, those statements are of in the nature of hearsay. The spot panchanama does show the existence of an independent room of the informant, where the alleged incident had occurred.

6. This Court is not oblivious of the fact that the alleged incident took place on 20.06.2021, whereas, the FIR came to be lodged on 24.06.2021. No reasons much-less the satisfactory reasons are assigned for such an inordinate delay in lodging the FIR. Having regard to the nature of offence and as also simmering relations between the parties and the facts that the custodial interrogation of the present applicant-accused is not warranted in the present set of facts and circumstances, this Court is of considered opinion that the interim relief so granted by this Court on 19.07.2021 needs to be confirmed and made absolute.

7. In view of above, I pass the following order.

ORDER

Interim relief granted on 19.07.2021 by this Court is made absolute.

8. The application stands disposed of accordingly.

[V.G. BISHT, J.]

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