

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.829 OF 2021

1. M. Jalil S/o M. Mansaf Bhai,
(Referred as Shaikh Jalil in F.I.R.)
Age 56 years, Occu. Labour.
 2. Shaikh Mahemudabi W/o Shaikh Jalil,
Age 47 years, Occu. Household,
 3. Shaikh Akhil S/o Shaikh Jalil,
Age 33 years, Occu. Labour,
 4. Shaikh Shakil S/o Shaikh Jalil,
Age 31 years, Occu. Labour,
- All 1 to 4** R/o Warudves, Jintur,
Tq. Jintur, Dist. Parbhani.
5. Syed Altaf S/o Syed Hanif,
Age 45 years, Occu. Service Machine Operator,
R/o Rahemaniya Colony, Aurangabad.
Tq. & Dist. Aurangabad. ... Applicants.

VERSUS

The State of Maharashtra,
Through Jintur Police Station,
Jintur, Tq. Jintur, Dist. Parbhani. ... Respondent.

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Advocate for the Applicants : Mr. G. R. Syed.
APP for the Respondent - State : Mr. N. T. Bhagat.

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CORAM : V. G. BISHT, J.

DATE : 25th AUGUST, 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.237 of 2021 registered with Jintur Police Station, District Parbhani for the offences punishable under Sections 498-A, 315, 316, 354, 294, 442, 323, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2. It is the case of the prosecution that the informant was married to Shaikh Mohammad Shakil Shaikh Jalil, (applicant No.4), resident of Barudbase Mohalla, Jintur on 04.05.2018 and was treated well for about 3 to 4 months and thereafter harassment started. On 20.04.2019 mother-in-law (applicant No.2), father-in-law (applicant No.1) and brother-in-law (applicant No.3), all started harassing and taunting her and beat her by means of fist and kick blows. As a result of which, she was advised to abort the foetus. Again, on 17.01.2020, despite having knowledge that informant was carrying, applicant No. 4 assaulted her by fist and kick blows on her abdomen, due to which there was miscarriage.

3. Mr G. R. Syed, learned counsel for the applicants, submits that although the alleged harassment started after four months of the marriage and the last incident of assault took place on 20.04.2019 and she was allegedly driven out of matrimonial home on 17.01.2020, the FIR came to be lodged

on 08.07.2021 i.e. only after a year and six months and that too after notice was issued by informant's husband seeking restitution of conjugal rights. According to the learned counsel, having regard to the nature of the allegations, it is not the kind of case where the interrogation of the applicant is necessary. The applicants are ready to abide the conditions, if imposed by this Court while enlarging them on pre-arrest bail.

4. Mr. N. T. Bhagat, learned APP, on the other hand, submits that as the incident was of physical violence, the informant was required to abort twice. The allegations are of serious nature and, therefore, the application needs to be rejected.

5. It is clear from the submissions of the learned counsel for the applicants, which is not disputed, that there is a matrimonial discord between the parties. There is an abnormal delay in lodging the FIR, which is not explained anywhere. Moreover, there are allegations of mental and physical cruelty. The nature of case is not such that which needs custodial interrogation. This being so, in my considered opinion, the application deserves consideration.

6. In view of above, the following order :-

ORDER

- (1) The Application is allowed.
- (2) Interim protection granted by this Court on 02.08.2021 is confirmed and made absolute.
- (3) Application is accordingly disposed off.

(V. G. BISHT)
JUDGE

shp/-