IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 874 OF 2021

1. Sachin s/o Rama Maske
Age 26 years, Occu: Service,
R/o Dhunkawad, Tq. Dharur
District Beed, at present- Police Quarters,
Georai, Tq. Georai, Dist. Beed

2. Sangita s/o Rama Maske
Age 50 years, Occu: Household
R/o. Dhunkawad, Tq. Dharur
District Beed

3. Rama s/o Vitthal Maske
Age 55 years, Occu: Labour
R/o As above

4. Shubham s/o Rama Maske ... Applicants
Age 21 years, Occu:Education,
R/o Dhunkawad, Tq. Dharur
District Beed, at present- Sai Career
Academy, Pathardi, Tq. Pathardi,
District Ahmednagar.

5. Savita w/o Santosh Kamble
Age 23 years, Occu: Household
R/o Diksal, Tq. Kallam
District Osmanabad.

VERSUS

The State of Maharashtra, ... Respondents
Through Police Station, Dharur
Tq. Dharur, District Beed

Mr. S. J. Salunke, Advocate for the applicant,
Mr. N. T. Bhagat, A.P.P. for the State.

CORAM : V. G. BISHT, J.
DATE : 26th August, 2021.

ORDER:

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.161/2021 registered with Dharur Police Station, District Beed for the offences punishable under Sections 307, 498-A, 504, 506, 34 the Indian Penal Code, 1860.

2. It is the case of the prosecution that the informant was married to applicant No.1 on 04.08.2020. Applicant Nos. 2 and 3 are the parents in-law of the informant while applicant Nos. 4 and 5 are brother-in-law and sister-in-law respectively. Allegations are that after a month of marriage, the applicant-husband started harassing the informant and also told her that he is in love with fellow colleague and would like to marry her. All the applicants also used to harass and ask her to bring Rs.4 lakhs so as to purchase four wheeler. Even on 05.12.2020, at the instance of the applicant-husband, the applicants tried to set her on fire by pouring kerosene but as she raised commotion, that attempt was foiled. On 05.12.2020 itself, she was taken away to parental home by her mother. On 18.06.2021, applicant No.4 visited the informant and told her that applicant No.1 had called her to settle the dispute but there, she was again abused by the applicant-husband and his lover.

3. Mr. S.J. Salunke, learned counsel for the applicants, submits that as the applicant-husband initiated proceedings of divorce, out of vengeance, the informant filed the first information report that too after abnormal delay. The learned counsel, during the course of argument,

also invited my attention to the complaint made by her husband to the Superintendent of Police, Beed about threat of suicide given by the informant and false implication of the family members. Moreover, the present case being not a case of custodial interrogation, the application deserves to be allowed, argued learned counsel.

4. Mr. N. T. Bhagat, learned A.P.P., on the other hand, would submit that the applicant-husband is in Police Department having illicit relations with one of his colleague and because of that the informant has been subjected to constant harassment by him and his family members. Learned A.P.P. also invited my attention to N.C. filed by the mother of the informant in respect of beating given by the applicant husband and one Varsha Laxman Khandagale with whom the applicant-husband was having illicit relations. Learned A.P.P. further invited my attention to the complaint dated 28.07.2021 written by the informant-wife to the Superintendent of Police, Beed requesting that since the anticipatory bail application of the applicant-husband and others came to be rejected by the Sessions Court, they threatened her to withdraw the complaint against them and therefore they should be arrested. There being no merit in the application, the same is liable to be rejected, urged learned A.P. P.

5. First of all, it may be seen that the informant had left conjugal home on 05.12.2020. Till then, no legal proceedings were initiated by her in respect of the alleged ill treatment. On 18.06.2021, when she was

at her conjugal home and after receiving the message of applicant No.4 she visited the applicant-husband and there she was again abused and threatened by the applicant-husband. It is at that point of time she lodged N.C. The present first information report only came to be lodged on 16.07.2021 i.e. almost after a month of the last incident. Therefore, I do find substance in the submission of the learned counsel for the applicants that there is gross delay in filing the complaint.

6. It is also seen from the complaint dated 16.12.2020 addressed by the applicant-husband to the Superintendent of Police wherein it is mentioned that the informant had told the applicant-husband and his family members that as her marriage was performed against her will, she does not want to cohabit and that she would like to commit suicide. The applicant-husband, by the said letter, also requested the Superintendent Police to take preventive action against the informant. It also appears that divorce petition has been filed by the applicant-husband on 17.12.2020 and it is much thereafter the first information report in question came to be filed.

7. Having regard to the strained relations between the parties arising out of family differences and also the N.C. and complaint moved by the informant-wife to the Superintendent of Police, Beed, this is not a case where custody of the applicants at all is necessary. Taking over all view of the material on record, I am inclined to allow the application.

8. Hence, following order.

O R D E R

In the event of arrest of the applicants in connection with Crime No.161/2021 registered with Dharur Police Station, District Beed for the offences punishable under Sections 307, 498-A, 504, 506, 34 of the Indian Penal Code, 1860, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.15,000/- [Rs. Fifteen thousand only] each, with one or two solvent sureties in the like amount.

9. The application stands disposed of in the aforesaid terms.

(V. G. BISHT, J.)

JPC