

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 933 OF 2021

Ashwini Pagya Pawar
Verus
The State of Maharashtra.

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Mr. Shriraj R. Wakale, Advocate for applicant
Mr. S.B. Narwade, APP for respondent.

CORAM : V.G. BISHT, J.

**RESERVED ON : 16TH SEPTEMBER.2021.
PRONOUNCED ON : 21ST SEPTEMBER, 2021.**

PER COURT:

1] This is an application under Section 438 of Cr.P.C. preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No. 4 of 2021, registered with Police Station, Shrigonda for the offences punishable under Sections 143, 147, 148, 149, 306, 307, 452, 509, 323, 504, 506 of IPC.

2] It is the case of prosecution that accused Pagya Militrya Pawar repeatedly used to solicit sexual favour from informant which was opposed by her. His wife, namely, Ashwini Militrya Pawar (applicant) also used to quarrel with the informant and her husband, namely, Amol. On 1.1.2021, accused Pagya again demanded sexual favour but the informant refused and, therefore, a quarrel took place between them.

3] The prosecution alleges that on 2.1.2021, while she was

fetching water from the hand pump, accused Pagya Pawar and other accused started abusing her. When informant objected to that, accused Pandurang Diespya slapped her. Accused Pagya Pawar drew petrol from a motor-cycle and poured it on her person. When the informant opposed, it is alleged that applicant Ashwini caught hold her while accused Pagya set her on fire. The statement of informant came to be recorded in the hospital and on the basis of it the FIR in present case came to be registered.

4] Mr. Wakale, learned counsel for the applicant, submits that there are fatal contradictions in the FIR, viz-a-viz the statements of the prosecution witnesses recorded during the course of investigation which makes the prosecution case totally doubtful. According to learned counsel, all the other co-accused have been released on bail by the trial court. The present case does not require custodial interrogation of the applicant since the applicant is ready to cooperate with the investigating agency. There are no criminal antecedents. In such circumstances, the application deserves to be allowed.

5] Mr. Narwade, learned APP, on the other hand, vehemently opposed the submissions and submitted that the statement of victim, who later on succumbed to burn injuries, is treated as dying declaration, which specifies the role of the present applicant and other accused. There being no merit in the application same deserves to be rejected.

6] I have also gone through the investigation papers. The Post-mortem report of the informant shows the cause of death due to septicemia due to burns. The dying declaration implicates the present applicant and others, however, the investigation papers depict an altogether different story.

7] To begin with, I would like to refer to certain portion of the say of the Investigation Officer, who is opposing present anticipatory bail application. It is his own contention that in the preliminary inquiry of the incident, he came to know from the informant that the deceased, after a quarrel with accused poured petrol on her person on her own and set herself ablaze. The investigating Officer further states that the mother-in-law, husband and brother-in-law being eye witnesses to the incident did not turn up despite notices being issued to them to come forward and record their statement. This is one aspect.

8] Now, I straightway to go the statements of those witnesses whose statements are recorded during the course of investigation. One Bhausahab Dhondiba Sonawane, a villager, states in his statement that on 2.1.2021 at about 7.00 a.m., the deceased, her mother in law and husband were quarreling with 2/3 persons in Pardhi language. The victim then poured some liquid from a plastic bottle on her own person and when her mother in law and husband tried to prevent her from doing so, she ran away and later on set herself ablaze by means of a match stick. This statement finds echo through versions of other witnesses, namely, Narayan Hari Ransingh, Bhausahab Dhondiba Sonawane, Ashok Jayram Salve and Rajaram Vishwanath Hore.

9] Then there is statement of husband of deceased, namely Amol Arun Pawar. His statement also shows how accused Pagya used to harass his wife over the demand of sexual favour and it also happened on 1.1.2021. Because of that harassment, his wife poured petrol on her person and set herself ablaze by means of a match-stick. According to him, he and family members were annoyed. Therefore, they decided to

implicate Pagya and his wife i.e. present applicant. Similar is the statement of mother-in-law of the deceased.

10] From the above, prima facie, the so-called dying declaration, which is pressed heavily by the learned APP, loses its spark and luster. The statements given by family members and as also by villagers cannot be overlooked outrightly and those statements are full of significance. Even assuming for the sake of argument the dying declaration to be true and correct, then also, I do not find necessity of custodial interrogation of the present applicant. At the most, certain conditions can be imposed while allowing the application.

11] In the above premise, I am inclined to allow the application. Hence, the following order.

: O R D E R :

[I] In the event of arrest of the applicant in connection with Crime No.4 of 2021, registered with Police Station, Shrigonda for the offences punishable under Sections 143, 147, 148, 149, 306, 307, 452, 509, 323, 504, 506 of IPC., the applicant be enlarged on bail on her furnishing PR Bond in the sum of Rs. 20,000/-, with one or two sureties in the like amount.

[II] The applicant shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.

[III] She shall not tamper with the evidence.

12] The application stands disposed of in aforesaid terms.

[VG. BISHT]
JUDGE.

grt/-