

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1010 OF 2021

(1) Anurath Baliram Phad
(2) Gitaram Jagannath Mundhe
(3) Savita Gitaram Mundhe ...Applicants

Versus

The State of Maharashtra ... Respondent

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Advocate for the Applicants : Mr. Satej S. Jadhav
APP for the Respondent – State : Mr. N. T. Bhagat

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CORAM : V. G. BISHT, J.

DATE : 22nd 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.0245/2021, registered with Gangakhed Police Station, District Parbhani for the offences punishable under Sections 307, 498-A, 323, 324, 504, 34 of the Indian Penal Code, 1860.

2. It is the case of prosecution that informant's statement came to be recorded in Government Hospital, Gangakhed on 06.07.2021. According to her she was married to applicant

No.1 in the year 2011. She alleges that applicant husband and his family members used to harass her physically and mentally on the ground that she was not liked by them.

3. Informant further alleges that on 06.07.2021 while she was present in the house, her brother-in-law Gitaram Jagannath Mundhe i.e. applicant No. 4 came and started telling as to why she was brought back. When she objected, applicant No.1 husband and her father-in-law i.e. accused Baliram Phad started beating her. She was also assaulted by her sister-in-law i.e. accused / applicant No. 3. According to informant applicant No. 3 then brought a Can of diesel and poured on her person and her mother-in-law Subhadra Phad set her on fire. The informant accordingly filed the complaint.

4. Mr. Satej S. Jadhav, learned counsel for the applicants, submits that all the applicants have been falsely implicated because of pendency of the matrimonial proceeding between the informant and applicant No.1. Moreover, according to learned counsel at the time of alleged incident all the applicants were present in Pune and this itself shows that the present F.I.R. lodged against him is false, concocted and bogus. The learned counsel lastly submitted that the Medico-Legal Certificate of the informant discloses simple burn injuries

to the extent of 17.5 % and she has already been discharged from Hospital. There is nothing to be recovered. In such circumstances the present application deserves to be allowed.

5. Mrs. V. S. Choudhari, learned APP for the Respondent – State, on the other hand, would oppose the submissions by contending that the investigation is in progress. However, learned APP fairly submitted that all the burn injuries sustained by the informant were simple in nature. There being no merit in the application, the same is liable to be rejected, argued learned APP.

6. I have gone through the say (Exhibit “C”) of learned APP filed before the trial Court in Criminal Bail Application No. 164/2021. The say clearly and *prima-facie* shows that at the relevant time all the applicants herein were present in Pune City. Thus, I do find substance in the submission of learned counsel for applicants that at the time of alleged incident the present applicants were nowhere in picture.

7. Even otherwise the alleged incident is arising out of the matrimonial discord in which the informant sustained simple burn injuries allegedly at the hands of applicants and others. There is also no dispute to the fact that she has already been

discharged from the hospital. There is nothing to be recovered from the applicants.

8. Having regard to the nature of accusation, facts and circumstances of the case and as also keeping in mind the alleged simple burn injuries sustained by informant, in my considered opinion, it is not a case of custodial interrogation. The custodial interrogation is totally unwarranted.

9. In view of above, I pass the following order :-

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest of the applicants -(1) Anurath Baliram Phad (2) Gitaram Jagannath Mundhe (3) Savita Gitaram Mundhe herein in connection with Crime No.0245/2021, registered with Gangakhed Police Station, District Parbhani for the offences punishable under Sections 307, 498-A, 323, 324, 504, 34 of the Indian Penal Code, 1860, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.20,000/- (Rupees Twenty Thousand only), each with one or two sureties in the like amount.
- (iii) The applicants shall attend concerned police station as and when called by the Investigating Officer.
- (iv) The applicants shall not tamper with the prosecution evidence in any manner.
- (v) Application is accordingly disposed of.

(V. G. BISHT)
JUDGE