

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

ANTICIPATORY BAIL APPLICATION NO. 1147 OF 2021

Prabhakar @ Parbat s/o Nagorao Kale ... **Applicant**
Age 65 years, Occu: Lawyer,
R/o Nideban Ves, Udgir,
Tq. Udgir, Dist. Latur

VERSUS

The State of Maharashtra, ... **Respondent**
Through Police Inspector,
Udgir (City) Police Station,
Tq. Udgir, Dist. Latur

Mr. Ram S. Shinde, Advocate for the applicant,
Mr. S. B. Narwade, A.P.P. for the State.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th October, 2021

ORDER:

1. The applicant is seeking pre-arrest bail in Crime No.254/2021 registered with Udgir (City) Police Station, District Latur for the offences punishable under Sections 307, 323, 452 and 506 read with 34 of the Indian Penal Code.

2. The case of the complainant is that her husband is not residing with her. He has filed proceedings for divorce in the Court at Udgir. On 2nd September, 2021, husband of the complainant and his two friends Ram Sambhaji Gilche and Prabhakar Kale (Applicant) entered into her house. Her husband questioned her as to why she is not giving divorce to him. She was caught by the friends of her husband and the husband

had poured Kerosene with an intention to kill her on her person. Son of the complainant came out of the house and the accused managed to flee. The complainant sustained injuries on her person. She was slapped by her husband. Thereafter, the complainant went to the Court at Udgir and at that time her son was called by her husband and assaulted. She visited the Police station and she was sent to Government Hospital for treatment.

3. The applicant preferred an application for anticipatory bail before the sessions Court which was rejected by order dated 20th September, 2021.

4. Learned Advocate for the applicant submitted that the applicant is having no concern with the alleged incident. The applicant is representing husband of the complainant as his lawyer and hence he has been falsely implicated in this case. The applicant is a practicing Advocate aged about 65 years. The alleged incident had occurred on 02.09.2021 at 11.30 a.m. and the crime was registered on 06.09.2021. There is deliberate delay in lodging the complaint. Custodial interrogation of the applicant is not necessary. The allegations in the first information report are concocted. The applicant is practicing lawyer since last 30 years. The applicant is representing the husband of informant in the petition filed by him under section 13(1) of the Hindu Marriage Act, which is numbered as HMP No.53/2019. The informant's husband is also Advocate practicing at Udgir. The proceedings were

referred to mediator for settlement. The mediation was unsuccessful. The complainant and co-accused were married 23 years ago. The informant is having grudge against the applicant since he is representing her husband in the court proceedings. Elder son of the informant is of 22 years old and younger son is 19 years old. The applicant is willing to cooperate with the investigation. Accused No.1 was assaulted by the complainant and her sons. The informant has alleged that she went to the Court after the first incident of pouring Kerosene and thereafter went to the Police station but did not lodge complaint. She was allegedly treated in the Hospital and thereafter went to Latur. She concocted the false story involving her husband and others.

5. Learned A.P.P. submitted that specific role has been attributed to the applicant. All the accused attempted to kill the victim. Kerosene bottle was seized from the spot. Clothes of the victim are also seized. The incident had occurred on account of differences between the complainant and her husband. The informant was admitted in the Hospital on 03.09.2021 and subsequently discharged. The offence is serious. Vehicle used in the offence is required to be seized. Custodial interrogation of the applicant is necessary. Spot of incident was shown by the son of the complainant. CCTV Camera installed at the place of incident was not in operation. Hence CCTV footage or DVR was not seized. The accused had visited house of the father of the complainant before reaching the spot of incident. That fact is supported by the CCTV

footage. Statements of witnesses are recorded. Clothes of the victim were also seized. Hence, the application may be rejected.

6. The first information report has been registered against the husband of the complainant, Ram Sambhaji Shinde and the applicant. According to the complainant, the incident had occurred on 02.09.2021 at about 11.30 a.m. It is alleged that the complainant's husband poured kerosene on her person with an intention to kill her. The friends of her husband had facilitated the act committed by the accused No.1. Complainant then visited the Court at Udgir and she noted the presence of her husband and his friends. There is no independent evidence to support the prosecution that the applicant and the co-accused had visited the house of complainant and committed the alleged act. It appears that CCTV footage of the place of residence of father of the complainant indicates that accused had visited his house. Accused No.1 and the applicant are Advocates. There are matrimonial differences between the complainant and her husband. The applicant is a senior lawyer aged about 65 years. Apparently, he is representing accused No.1 husband in the Court proceedings. The case of the complainant is that after pouring kerosene, the accused ran away from her house. The injuries sustained by the victim are not caused due to pouring of kerosene.

7. After the incident, the complainant went to the Court and from there she went to the Police Station. The first information report was

lodged on 6th September, 2021. It is not clear as to why the complaint was not registered, when she approached to police immediately after the alleged incident. Marriage between the complainant and accused No.1 had solemnized 23 years ago. Divorce proceedings are pending in the Court.

8. Considering the aforesaid factual aspects, investigation may proceed without subjecting the applicant to custodial interrogation. Hence I pass the following order :-

ORDER

- (i) Anticipatory Bail Application No. 1147 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in CR No. 254/2021 registered with Udgir City Police Station, District Latur the applicant be released on bail on executing P.R. Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall appear before the Investigating Officer on 20-10-2021 and 21-10-2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.
- (iv) The application stands disposed of.

(PRAKASH D. NAIK, J.)

JPC