

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

ANTICIPATORY BAIL APPLICATION NO.1222/2020

**VANDANA W/O. ADINATH WANKHEDE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Jain Vishwajit R (Kamboj)
APP for Respondent State: P.G.Borade

....

ANTICIPATORY BAIL APPLICATION NO.1134 OF 2020

**1]DINESH S/O KADU BHOLE
2]SARASWATI @ SARASWATABAI W/O KADU BHOLE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicants : Jain Vishwajit R (Kamboj)
APP for Respondent State: P.G.Borade

...

CORAM : MANGESH S. PATIL, J.
DATE : 25.01.2021

PC. :-

These are the applications under Section 438 of the Cr.PC. as the applicants are apprehending their arrest in connection with Crime No.189/20 registered with Jalgaon Taluka Police Station, Jalgaon for the offences punishable under Sections 498-A, 323, 406, 504, 506 read with Section 34 of the I.P.C.

2] In substance the allegations are to the effect that after putting in more

than 18 years of marital life the informant lodged the complaint against the husband, mother in law and a woman who she suspected to be having illicit relations with husband. It is alleged that the informant wife was assaulted by the husband for demand of money and as she was opposing the illicit relations.

3] Since the offences are of the kind described hereinabove, the lady who is the applicant in ABA No.1222/20 and stated to be having illicit relations with the husband being not a person related to him within the meaning of the definition as contemplated under Section 498-A and the other offences being bailable there cannot be any impediment in granting her bail under Section 438 of the Cr.P.C. She has already been protected by way of interim relief and which can easily be confirmed.

4] So far as the husband and the mother in law who are the applicants in ABA No.1134/20 are concerned, their learned advocate submits that they are being falsely implicated. In fact the mother in law had already filed a complaint on 23/10/2020, alleging about the informant and her relations having criminally trespassed into her house and having stolen cash, a mobile phone and a motor cycle. On the very next day on 24/10/2020, some sort of settlement was arrived at and by issuing a notice under Section 149 of the Cr.P.C. the Police Officer concerned had closed the case by warning both the sides. He would then submit that it is thereafter, belatedly the F.I.R. has been lodged on 10/11/2020 making false and frivolous allegations. If really there was ill treatment meted out to the informant she would have lodged the F.I.R. promptly. It is only a figment of imagination and the F.I.R. has been lodged to take vengeance.

5] The learned advocate would submit that the husband and the mother in law were already protected by ad-interim relief. Their custodial interrogation is not necessary, going by the principles laid down in the case of **Arneshkumar V/s State of Bihar and others; AIR 2014 S.C. 2756**. They have cooperated the Investigating Officer as per the terms and conditions laid down in the order and the application may be allowed.

6] The learned A.P.P. opposes the application of the husband and the mother in law. He submits that at this stage there is enough material to corroborate the prosecution version. The fact that the wife has to file FIR after putting in more than 18 years of marital life is indicative of the fact that there must be some sufficient reason for her to take such a drastic step. There are sufficient allegations making out all the necessary ingredients for constituting the offence punishable under Section 498-A of the I.P.C. Custodial interrogation of the applicants is therefore necessary and the application may be rejected.

7] It is indeed startling that the informant had put in more than 18 years of marital life. As can be gathered, even she could beget couple of children out of the wedlock who are in their teens. It is being alleged that the informant was perceiving that the husband is having illicit relations with a lady. One can easily perceive that this could be the strong reason for the marital discord.

8] True it is that the F.I.R. has been lodged after the mother in law had approached the police making some grievance which matter was thereafter amicably settled. But it is equally important to note that even going by the

F.I.R. the mother in law has been residing separately from the couple.

9] Considering the nature of the allegations, when the investigation is still at a nascent stage custodial interrogation of the husband is certainly imperative.

10] Since the mother in law being an aged woman, deserves bail in the event of her arrest, but anticipatory bail can not be granted to the husband.

11] The Anticipatory Bail Application no.1222/2020 is allowed. The ad-interim relief granted by order dated 31/12/2020 stands confirmed with the same terms and conditions.

12] Anticipatory Bail Application No.1134/2020 is partly allowed. In respect of the applicant no.2 Saraswati @ Saraswatabai w/o Kadu Bhole, ad-interim relief granted to her by order dated 7/12/2020 stands confirmed with the same terms and conditions.

13] Application to the extent of applicant no.1 in A.B.A.No.1134/2020 is rejected.

[MANGESH S. PATIL, J.]