

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

ANTICIPATORY BAIL APPLICATION NO. 1274 OF 2021

Nikhil s/o Hiraji Londhe ... **Applicant**
Age 25 Years, Occu: Business,
R/o C-803, Cyprus/Sirocco Grande,
Punawale Bazar, onawale By-pass Road,
Pimpri-Chinchwad, Pune.

VERSUS

The State of Maharashtra, ... **Respondent**
Through P.I., Loni Police Station,
District Ahmednagar.

WITH

ANTICIPATORY BAIL APPLICATION NO. 1278 OF 2021

Smt Sushila wd/o Hiraji Londhe ... **Applicant**
Age 61 Years, Occu: Household,
R/o C-803, Cyprus/Sirocco Grande,
Punawale Bazar, onawale By-pass Road,
Pimpri-Chinchwad, Pune.

VERSUS

The State of Maharashtra, ... **Respondent**
Through P.I., Loni Police Station,
District Ahmednagar.

Mr. Sachin S. Panale, Advocate for the applicants,
Mr. S. B. Narwade, , A.P.P. for the State.
Mr. Datta A. Madake, Advocate assists to P.P.

CORAM : PRAKASH D. NAIK, J.
DATE : 25th November, 2021

ORDER:

1. The applicants are apprehending arrest in connection with Crime No. 0279/2021 registered with Loni Police Station, District Ahmednagar for the offences punishable under Sections 323, 406, 420,

498(A), 504, 506, 34 of the Indian Penal Code (for short "IPC") and Section 4 of Dowry Prohibition Act.

2. The First Information Report (for short "FIR") was registered on 3rd July, 2021. It is alleged that the complainant's marriage was performed with accused No.1 Nikhil Londhe on 12th May 2020. Victim is residing at her parental home from 2nd February, 2021. Brother-in-law of accused No.1 demanded Rs.10 lakhs from her father one day prior to the marriage. It was decided to handover the amount of Rs.5 lakhs during marriage and balance amount after marriage. Father of complainant handed over Rs. Three lakhs cash in the presence of two persons and Rs. Two lakhs were invested by F.D. in the name of husband with Jaihind Cooperative Credit Society. During marriage gold ornaments were given to the complainant. Father of complainant had spent money for engagement and marriage ceremonies. Thereafter accused demanded Car and amount for buying Flat. The complainant was ill-treated. The accused were insisting that balance dowry amount should be handed over by the complainant's father. The complainant was confined at home. She was assaulted on 4th December, 2020. On 2nd February, 2021, parents of the complainant were called at matrimonial home of the complainant. Thereafter the complainant was forced to leave the matrimonial home. Shridhan of the complainant was retained by the accused. FIR was registered against seven persons. Supplementary statement of complainant was recorded on 17.09.2021.

The said statement was recorded pursuant to complaint by first informant to Superintendent of Police. On 28.01.2021 the complainant noticed that she is pregnant. According to her, she informed about it to husband. The accused were not interested in delivery of child. They wanted to abort child. She was threatened. On 29.01.2021 the accused forced her to consume tablet for termination of pregnancy. Her parents were called. She was told to inform her parents that she is pregnant. Under the pressure of accused, she told her parent that she is not interested in child. She was taken to Dr. Hiremath. Her parents had also accompanied her. They were made to sit out and complainant was taken inside hospital. Her consent was recorded by Doctor. She was given course for termination of pregnancy and forced to undergo abortion.

3. The applicants preferred application for anticipatory bail before the Court of Sessions. The said application was rejected by order dated 1st October, 2021.

4. Learned Advocate for the applicants submitted that the FIR has been lodged five months after the complainant left her matrimonial home. The accused have not committed alleged offences. The applicants are well to do. They have flat and Car. The question of demanding money and car from the complainant does not arise. Amount of Rs.3,59,000/- were transferred to the complainant. The

dispute is on account of matrimonial discord. The complainant had stayed at matrimonial home for a short span of time. She was insisting that her husband should reside with her separately from his mother. Husband refused to do so. The complainant was not interested in pregnancy. It was decided to terminate the pregnancy. It was terminated by her consent. Applicant Nikhil Londhe has completed B.E. Computer Degree from PCMC College of Engineering. He is meritorious student. He has started his own business. He is tax payer. The applicant in ABA No. 1278/2021 is mother-in-law of the complainant. She has been falsely implicated in this case. She is aged about 61 years. The FIR was lodged against 7 persons. The FIR is silent about forceful termination of pregnancy. The allegations are after thought. The letter issued by nursing home confirms that pregnancy was terminated by consent of complainant. There was no complaint about forceful termination in past. Custodial interrogation of the applicants is not necessary.

5. Learned APP submitted that both the applicants are involved in causing ill-treatment to the complainant. There was demand of dowry. Amount of Rs.5 lakhs was parted to the accused. For payment of balance amount, the complainant was ill-treated. She was forced to terminate pregnancy. There is discrepancy in the documents produced by the applicants regarding termination of pregnancy of the complainant. Supplementary statement of the complainant was

recorded. The complainant has produced receipts regarding purchase of gold ornaments. The accused retained the ornaments/shridhan of the complainant. Their custodial interrogation is necessary. Ornaments are required to be recovered. Opinion is sought for applying section 313 of IPC.

6. The learned counsel for the complainant supported the submissions of learned APP. It is submitted that the accused have also committed offence under section 313 of the Pre- Conception & Pre-Natal Diagnostic Techniques Act, 1994 Act, 1994. The documents produced by the accused and collected during investigation are contrary. Medical case papers refer to barrier failure. There is nothing on record to show that termination of pregnancy was by consent of the complainant. There was repeated demand of money from the complainant. She was assaulted and abused. She was forced to leave the matrimonial home. Ornaments were misappropriated. Gold receipts are annexed to the application preferred by the complainant. Complaints were made to the police authorities on 28th June, 2021 and 7th September, 2021. Section 313 of IPC is applicable. It is serious offence. The claim of applicants that amount has been credited into the account of complainant is false.

7. From the first information report and the investigation papers it can be inferred that there are differences between the complainant and

accused. The marriage was performed on 12th May, 2020. According to the complainant, she was forced to leave matrimonial house on 02.02.2021. Since then the complainant is residing at her parental home. FIR was registered on 3rd July, 2021. It appears that complainant had forwarded some complaints to the police authorities in June, 2021. There is no immediate complaint of misappropriation of ornaments. Several persons were impleaded as accused. The other accused were granted relief under section 438 Cr.P.C. It is alleged that the accused have retained jewelry belonging to the complainant. It is open to the investigating to conduct search at the residence of the accused by following due process of law.

8. In the FIR dated 23rd July, 2021 it is not alleged that pregnancy of the complainant was forcefully terminated or without her consent. Supplementary statement was recorded on 17th September, 2021. The said allegation had appeared subsequently. The documents annexed to the application by the applicants indicates that the applicant Nikhil Londhe had forwarded a letter dated 13th October, 2021 to Hiremath Nursing Home, Pune. In the said letter it was stated that his wife had performed medical termination of pregnancy from the said nursing home by oral pills on 2nd February, 2021 with her consent. The said nursing home wrote a letter stating that Mrs. Harshal Kharde (Londhe) had taken medial termination pills on 02.02.2021 at Hiremath Nursing Home. They have done all consent formalities. Those documents can be

given only in the Court of law. Correspondence was also exchanged with the Medical Officer of PCMC and the Commissioner, PCMC for producing documents about termination of pregnancy. Sonography report dated 02.02.2021 has been annexed to the application. The said report indicate that "Impression: Single intrauterine gestation of less than 6 weeks". Learned APP submitted that the said documents run counter to the contention of the applicants. Medical case papers also refers "barrier failure" which is also contrary to the version of the accused. It was also contended that the accused have made false claim that amount was transferred in the name of the complainant. She has not opened the account as referred to by the accused. Section 313 of IPC has not been invoked as yet. The supplementary statement of complainant was recorded on 17.09.2021. The FIR is dated 07.07.2021. In the said statement complainant has stated that she took tablet under force. Her parents had accompanied her at nursing home but they were made to sit out. Under pressure she told her parents that she is not interested in pregnancy. Her consent was recorded by Doctor. This has happened in January, 2021. Thus, it is admitted that she had filled up consent form. Her parents were outside nursing home. The allegation appears to be after thought.

9. Considering the factual aspects of the matter, investigation can proceeding without subjecting the applicants to custodial interrogation.

10. Hence, I pass the following order :-

ORDER

- i. Anticipatory Bail Application Nos. 1274 of 2021 and 1278 of 2021 are allowed;
- ii. In the event of arrest of the applicants in Crime No. 0279/2021 registered with Loni Police Station, District Ahmednagar, the applicants be released on bail on executing PR bond in the sum of Rs. 20,000/- each with one or more sureties in the like amount;
- iii. The applicants shall attend the investigating officer on 13th, 14th, and 15th December, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of the charge sheet.
- iv. The applicant shall not tamper with the evidence.
- v. Anticipatory Bail Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)

JPC