

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

930 ANTICIPATORY BAIL APPLICATION NO.1260 OF 2021
WITH ABA/1304/2021

RAMJI SAMBHAJI GILCHE
VERSUS
THE STATE OF MAHARASHTRA
...

with

ANTICIPATORY BAIL APPLICATION NO. 1304 OF 2021

VASANT SOPANRAO BODKE
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicants : Mr. Ram S. Shinde
APP for Respondents: Mr. A.S. Shinde.

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CORAM : PRAKASH D. NAIK J.

DATE : 25th NOVEMBER, 2021.

PER COURT:

1] The applicants are seeking pre-arrest bail in crime No. 254 of 2021 registered with Udger (city) police station, "Dist Latur for the offences under sections 307, 323, 452 and 506 read with 34 of IPC.

2] The case of the complainant is that since last five years, her husband is not residing with her. He has filed proceedings for divorce in the Court at Udgir. On 2nd September, 2021, at about 11.30 a.m., husband of the complainant and his two friends Ram Sambhaji Gilche and Prabhakar Kale 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 from washroom. 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. The accused fell while assaulting. She visited the Police station and she was sent to Government Hospital for treatment.

3] The applicant Vasant Bodke is the husband of complainant. He is practicing advocate. Applicant Ramji Gilche is childhood friend of Vasant Bodke. Accused Prabhakar Kale is Advocate.

4] Prabhakar@ Parbat Nagrao Kale had preferred application for anticipatory bail before this court vide ABA No. 1147 of 2021. He is advocate who was representing applicant Vasant Bodke in the matrimonial proceeding between the complainant and said applicant. The said application was allowed by order dated 12th October, 2021.

5] The learned Advocate for applicant submitted that the allegations in the FIR are false. The alleged incident had occurred on 2.9.2021. The FIR was registered on 6.9.2021. The applicant Vasant Bodke has filed Hindu Marriage Petition No. 53 of 2019. He is the practicing Advocate. The proceedings were referred for mediation. It has failed. Vasant Bodke is represented by Advocate Prahakar Kale. He is also falsely implicated in this crime. The marriage between complainant and Vasant Bodke was solemnized 23 years ago. He was assaulted by complainant and sons. The complainant has

alleged that she went to the Court, after incident and then went to Police Station. Complaint was not registered. She concocted allegations of pouring kerosene. It is alleged that she sustained injuries on her person. By pouring kerosene, how she has sustained injuries is a question which shows that complaint is false. The Bar association had condemned the act of assault upon applicant and passed resolution.

6] 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.

7] The first information report has been registered against the husband of the complainant, Ram Sambhaji Gilche and Prabhakar Kale. 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 Prabhakar and the applicant Vasant Bodke are Advocates. There are matrimonial differences between the complainant and her husband. 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.

8] On perusal of the investigation papers, it appears that statement of Mustafa Pathan was recorded on 29.9.2021. In the said statement it is stated that on 2.9.2021, he had visited Udgir court for attending the proceeding. At that time, he noticed that Advocate Vasant Bodke was waiting in the premises. His two sons and wife entered into the court premises. The clothes of the complainant had a smell of kerosene. She started shouting. Her sons assaulted Advocate Bodke and abused him. They broke his cell phone. Advocate Bodke was sent for treatment to the hospital. I have perused the medical case papers submitted by the learned APP. History of the incident is provided therein. There is no reference of injuries. Considering the factual aspects of the matter, the applicants cannot be subjected to custodial interrogation.

ORDER

i] ABA No. 1260 of 2021 and ABA No.1304 of 2021 are allowed.

ii] In the event of arrest of the applicants in crime No. 254 of 2021, registered with Udgir (City) Police station, District Latur, the

applicants be released 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 appear before the I.O. as and when called till filing of charge sheet.

iv] Both the applications stand disposed of.

[PRAKASH D. NAIK]
JUDGE

GRT/-.