

URMILA
PRAMOD
INGALE

ANTICIPATORY BAIL APPLICATION NO. 2536 OF 2019

Maqsood Naim Sheikh and ors. ..Applicants
vs.
The State of Maharashtra and anr. ..Respondents

Mr.Shehzad Naqui, for Applicants.
Smt. J.S. Lohakare, APP for State.
Mr.T.K.Sinha, for Respondent No.2

CORAM : M. S. KARNIK, J.

DATE: SEPTEMBER 13, 2021

P.C. i

1. Heard learned Counsel for the applicants. This is an application for pre-arrest bail in respect of CR No. 466 of 2019 registered with Bandra Police Station, Mumbai for the offences punishable under sections 498A, 342, 406, 506(ii), 323, 504 read with 34 of the Indian Penal Code. The marriage was solemnized between the applicant No.1 and respondent No.2 on 06/11/2018 at Calcutta. On 18/11/2019, the first informant came to Mumbai with her

husband. It is alleged that three days prior to the marriage on 04/11/2018, various articles valued at Rs. 3,50,000/- were handed over and dowry amount of Rs. 8 lakhs was paid to the husband. Even prior to the marriage, some electronic articles were demanded by the husband which were also handed over to him by the parents of the informant. The mother-in-law i.e. applicant no.2 asked the informant to hand over all gold ornaments for keeping it in safe custody with the applicant No.2. It is then stated by the informant that the husband demanded a sum of Rs. 3 lakhs for purchasing a car. The informant started residing with the applicant at Bandra since 18/11/2018. Thereafter it is alleged that the applicants ill-treated the informant and demanded an amount of Rs. 5 lakhs from her. It is alleged that the applicant No.1 beat up the informant on one occasion. It is further alleged that in-laws were ill-treating the informant on account of demand for dowry. It is also alleged that the applicant No.2 beat up the informant. As it became unbearable for the informant to stay with the applicants, she left the matrimonial home on 21/01/2019.

2. Learned APP alleged that the streedhan and gold ornaments which the informant had handed over to the applicant No.2 for safe custody is yet to be recovered and therefore, the custodial interrogation of the applicants is necessary.

3. Learned Counsel for respondent No.2 submitted that there are specific allegations of dowry demand and ill-treatment. In his submission, marriage did not ever last for a month in view of the harassmt and ill-treatment the respondent No.2 had to suffer at the hands of the applicants. He submits that the applicants are not returning the streedhan and gold ornaments.

4. Learned App submits that the applicants attended the Police Station and their statements have been recorded, but nonetheless insists that custodial interrogation is necessary to recover the gold ornaments.

5. Perused the FIR. The allegations regarding ill-

treatment made in the FIR appear to be vague. The marriage was solemnized on 06/11/2018 at Calcutta. The respondent No.2 left the matrimonial home on 21/01/2019 alleging ill-treatment on account of dowry demand. Learned Counsel for the applicants submitted that proceedings under Domestic Violence Act have been filed at Kopergaon by respondent No.2 where she has sought the very same relief of return of streedhan and gold ornaments as mentioned in the FIR. Further learned Counsel on instructions submitted that without prejudice to the rights and contentions of the parties, the applicants are willing to pay and would pay sum of Rs. 3 lakhs to respondent No.2. As the applicants have shown grace voluntarily, it is for them to pay an amount of Rs. 3 lakhs to respondent No.2 which learned Counsel on instructions of applicant No.1 says that the same would be paid to the first informant - wife within a period of 4 weeks from today. It is made clear that this is only by way of grace and without prejudice to the rights and contentions of either side in the pending proceedings, civil or criminal. My attention is invited to the

order dated 19/09/2013 passed in ABA/851/2013 **(Mr.Sofin Abbas Patel Vs. The State of Maharashtra and anr.)** where this Court has observed that criminal proceeding is not a recovery proceeding and therefore the applicant cannot be sent to police custody for the same.

6. Learned Counsel for respondent No.2 relied upon the decision of the Rajasthan High Court in the case of **Dr.Ankit Punia S/o Ashok Punia Vs. State** dated 19/07/2019 in S.B. Criminal Miscellaneous Bail Application No. 3127/2018. The said decision cannot have any application in the present facts. It has been observed in the said case that there are serious allegations of physical abuse levelled in the complaint specifying the date and time. In the present case, allegations are vague. Hence, the decision is not applicable.

7. Considering that vague allegations have been made and that the FIR is registered almost after 6 months from the date when respondent No.2 is alleged to have left

the matrimonial home, further considering that proceedings under the Domestic Violence Act are already initiated for return of the streedhan and gold ornaments, in my opinion, custodial interrogation in the present facts of the applicants is not necessary. Hence, the following order.

ORDER

(i) In the event of arrest of the applicants in connection with C.R No. 466 of 2019 registered with Bandra Police Station, Mumbai, the applicants be released on bail on furnishing PR bond in the sum of Rs. 25,000/- each with one or two sureties of the like amount.

(ii) The applicants to co-operate with the investigation and report to the Investigating Officer as and when called for.

(iii) The applicants shall not threaten or intimidate or try to contact the informant or witnesses in any manner.

8. Application is disposed of.

(M.S. KARNIK, J.)