

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [ABA] NO. 462/2021.

Khajbi Mohamad Aalim @ Sirajbi Mohamad Aalim and others.

-VERSUS-

The State of Maharashtra, P.S. Dhad, District Buldhana.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A. Sambre, Advocate for the Applicant.

Shri M. Khan, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : AUGUST 24, 2021.

Heard.

2. Applicants are apprehending their arrest in Crime No.256/2021 registered with the non-applicant Dhad Police Station, District Buldhana for the offence punishable under Sections 307, 498-A, 323, 504 read with Section 34 of the Indian Penal Code.

3. The State has resisted the bail by filing reply-affidavit. It is contended that the offence is of serious nature and there is ample material to show the complicity of applicants in the alleged

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crime.

4. The victim – lady, lodged a report on 12.07.2021 regarding the occurrence. The matrimonial relations of the victim with her husband were strained from the year 2014, and she was residing separately. It is alleged that on 10.07.2021, in the afternoon victims husband came to her maternal house and took her to his own house. At that time, the applicant and other family members abused her, assaulted and forcibly administered poisonous substance, therefore, the report.

5. The learned Counsel appearing for applicants by denying the occurrence primely stated that the incident as stated in the first information report is fabricated one. It is brought to the notice that there was a matrimonial discord from the year 2014, and since then the victim was residing separately at her parental house. The victim lady had filed proceeding under Domestic Violence Act in the year 2014 itself. Copies of reply

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filed in the Domestic Violence proceeding was show to state that on 19.05.2014 itself, customary talak was given to the victim.

6. It is applicant's case that on the date of occurrence the victim came to their house and in order to pressurize, consumed poisonous substance. In order to falsify the contents of first information report, it is stated that on the date of occurrence, image of the victim was captured in the CCTV camera around 7 p.m. at her own house. Moreover, applicants have produced copy of N.C. lodged by one of the applicant on the date of occurrence itself, to state that the victim at her own came to their house and there was a ruckus.

7. Undeniably, the marriage was not smooth, as within three months from the marriage, the victim started to reside at her parental house. Since last 9 years the parties are on rival terms, as Court proceedings were going on. Some statements are shown from the reply filed in domestic violence proceeding that in past also the

victim had threatened to commit suicide.

8. Having regard to these facts, the defence requires serious consideration. Already applicants have attend the police station in pursuance of the directions issued by this Court. The reply-affidavit speaks that the prosecuting has seized one empty bottle containing poisonous substance. In view of that there is no necessity to have custodial interrogation. Applicants can be directed to join the process of investigation and to cooperate with the investigating agency. Hence, the following order.

- (i) Criminal Application is allowed and disposed of.
- (ii) The ad-interim order dated 26.07.2021 passed by this Court is hereby made absolute on same terms and conditions, with further directions to continue to attend the police station as directed earlier till the filing of the charge sheet or for a period of 6 months from today, whichever is earlier.

JUDGE

Rgd.