

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

Criminal Application (BA) No. 779 of 2021

[Gajanan Murlidhar Kakar ..vs.. State of Maharashtra, through P.S.O., Malkapur, Tq. Malkapur,
Dist. Buldana]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S. V. Sirpurkar, Advocate for the applicant
Mrs. K. R. Deshpande, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 11-08-2021

The applicant is seeking bail in connection with Crime 375/2021 registered with Police Station, Malkapur, District Buldana for the offences punishable under Sections 307, 498A and 323 read with Section 34 of the Indian Penal Code which is registered on the basis of report dated 29-6-2021 lodged by Mrs. 'V'. Alongwith the applicant, the husband and the parent-in-laws of Mrs. 'V' are arraigned as accused.

2. The gist of the report is thus :

The applicant is married to co-accused Purushottam. She was treated well during the initial two

years of marital life and then subjected to cruelty *inter alia* to pressurize her to satisfy dowry demand.

Mrs. 'V' alleges that on 20-6-2021 at 6.00 p.m., she was ousted from the marital home along with her personal belongings and her parent-in-laws left the house after locking the main door. Mrs. 'V' took the help of the Police Patil, opened the door and waited in the porch. At 10.00 p.m., her husband, in-laws and the applicant Gajanan, who is a relative, came home and had dinner. The complainant was hungry since she was not provided with food since last 2-3 days. She demanded food, however, she was denied food and during the course of the night, her mother-in-law inflicted burn injuries on her left and right arm by heating a kitchen pincer. Her husband assaulted her with wooden stick and her father-in-law assaulted her on the head with stone causing bleeding injury. She then alleges that the applicant Gajanan tied her legs with a rope, her parent-in-laws held her hands and legs and her husband forcibly administered some poisonous substance. Her husband, parent-in-laws and applicant Gajanan then left leaving

Mrs. 'V' in the house. She then reached Malkapur, went to the police station and gave to police phone number of her uncle. She was admitted to Government Hospital where her maternal uncle Santosh arrived and Mrs. 'V' disclosed the incident. She was then admitted to Government Hospital, Buldana where she underwent treatment from 21-6-2021 till 29-6-2021.

3. The learned Additional Public Prosecutor points out that the investigation is ongoing and the other accused are absconding. She also points out that the applicant has one crime registered under Section 324 of the Indian Penal Code.

4. I have perused the case diary. It is true that the investigation is ongoing in the sense that the charge-sheet is not filed. However, I have noted certain significant features which impel me to exercise discretion in favour of the applicant.

5. The version of the applicant is absolutely belied by the medical examination report and the papers

which I have perused. While there are some abrasions on the hand, there is no burn mark or injury. While the complainant alleges that her father-in-law assaulted her on the head with stone, there is no injury on the head. Indeed, the report of the Medical Officer which was called for by the Investigating Officer shows that she did not suffer any injury other than the linear abrasions. No marks as such, were apparently noticed on the legs indicating that her legs were tied with rope. While the complainant was treated on the premise that she consumed poison, the scientific evidence is inconclusive. At least, at this stage, it is not clear why her maternal uncle Santosh, to whom Mrs. 'V' allegedly immediately disclosed the incident when her maternal uncle visited her at the hospital, did not lodge a report.

6. I must make it abundantly clear that the observations supra are made taking a *prima facie* view and are restricted to applicant Gajanan.

7. Considering the material presently available in the charge-sheet and the fact that any further

investigation is not likely infuse credibility in the report which is on record, and which is inconsistent with the medical papers, although the investigation is ongoing, I am inclined to grant bail.

8. The application is allowed.

9. The applicant be released on furnishing PR bond of ₹ 16,000/- (Rupees Sixteen Thousand) with solvent surety of like amount on following conditions.

(a) The applicant shall not tamper with the evidence or make any attempt to influence the witnesses, directly or indirectly.

(b) The applicant shall not leave the country without the permission of the jurisdictional Court.

10. The application is disposed of in aforesaid terms.

JUDGE