

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

CRIMINAL APPLICATION (ABA) NO. 511/2021

(Mr. Milind S/o Ram Sangole Vs. State of Maharashtra)

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

Court's or Judge's Orders

Shri Parag K. Bezalwar, Advocate & Shri A. S. Mishrikotkar,
Advocate for the applicant.

Ms. Radha Mishra, Advocate (appointed) for informant.

Shri M. J. Khan APP for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATE : 09.09. 2021.

Heard.

2. This is an application for grant of pre-arrest bail in Crime No. 875/2021 registered with the Police Station Khadan, District Akola for the offence punishable under Sections 354, 354-A, 376-A, 109, 504, 506 of the Indian Penal Code.

3. Learned counsel for the applicant has straneously argued that this is a fit case for exercising discretion under Section 438 of the Code of Criminal Procedure since false accusations have been made to pressurize and humiliate the

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applicant. The State resisted bail by filing reply-affidavit. Moreover, informant has intervened and put her submission to oppose the bail.

4. Heard both sides and perused the record. The informant lady has lodged report against her brother-in-law (applicant) and mother-in-law namely Pushpalata. The Trial Court has granted pre-arrest protection to Pushpalata whilst declined to grant protection to applicant – Milind. The informant lady got married with the applicant's brother namely Bhushan in the year 2001. It is her case that since inception, she was experiencing indecent conduct of the applicant. From the beginning, the applicant was keeping ill eye on her. The applicant was making sexual advances on which she reported the matter to her mother-in-law Pushpalata but she asked to surrender herself to applicant – Milind and succumb to his wishes. She had also informed the things to her husband, however, he ignored. The informant has specified two instances dated

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27.03.2013 and 14.09.2013 about the occurrence. Particularly, she stated that on 14.09.2013, the applicant gagged her mouth and forcibly committed sexual intercourse against her will and wish. It is explained that since informant was scared about the safety of her children, she had not disclosed the things but finally filed the report.

5. Learned counsel for the applicant would submit that property dispute was going on since long. The informant and her husband were insisting for handing over possession of the premises. Several proceedings are pending in between the parties. Since share in the property was not given, informant was bent upon to file false cases against the applicant and other family members. In order to substantiate said contentions, applicant has given long list of pending proceedings between the parties. Finally in the year 2017, co-accused Pushpalata has filed complaint with the Police against informant and her husband about pressurizing her for delivering

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property. Thereafter, informant filed a case under the Protection of Women From Domestic Violence Act (D. V. Act) and under Section 498-A of the Indian Penal Code in the year 2017 itself. Moreover, informant's daughter has filed case under the Protection of Children From Sexual Offences Act against the applicant's brother Tushar in the year 2018. Puspallata has filed proceedings against informant and her husband under the Senior Citizens Act, in which informant's husband was directed to vacate the property. Copies of order are produced to show that informant thrice applied in D. V. proceeding for interim relief in shared household, however it was rejected. On the canvass of such uncontroverted facts, the present matter requires consideration.

6. It is apparent that the parties are having bitter enmity since long. Various proceedings are pending in between them. Mostly, the informant remained unsuccessful in getting property rights. Moreover, it is brought to the notice that before

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registration of crime, on 16.02.2021, Pushpalata had bequeathed her selfacquired property to the applicant and her another son Tushar, by excluding informant's husband Bhushan. These facts assumes significance, since the applicant alleges a case of false implication.

7. Perusal of First Information Report (FIR) discloses that alleged occurrence took place on 14.09.2013. After prolonged delay of seven years, report has been lodged. Though informant tried to explain the delay by stating that she was scared of her children, however *prima facie* the said explanation is not acceptable. Pertinent to note that informant had already filed several proceedings against all the family members from the year 2017 onward. Therefore, it is not acceptable that out of fear, she had not filed the report at the earliest.

8. One of the factor for consideration is to see whether the accusation has been made with

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the object of injuring or humiliating the applicant. There is possibility of false implication for pressurizing the applicant for settling the property dispute. Though informant has produced one NC report to show that the applicant used to threaten however in above background, it cannot be taken into account. The unnatural conduct of informant of keeping mum for seven year itself creates serious doubt. Moreover, it is not a case to have custodial interrogation rather I find that this is a fit case wherein the personal liberty has to be protected. While parting with the order, I am hastened to add that the above observations are made only to the extent of deciding this application. Since the informant has expressed fear of threat, suitable conditions can be imposed. At this juncture, learned counsel for the informant upon instruction stated that the informant is presently residing within the jurisdiction of Khadan Police Station.

9. In view of above, following order:-

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(I) Application stands allowed and disposed of.

(II) Ad-interim order dated 13.08.2021 regarding grant of pre-arrest protection is made absolute to the extent of quantum of P.R. Bond and bail amount.

(III) The applicant shall attend concerned Police Station as and when called.

(IV) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

(V) The applicant shall not enter into the territorial jurisdiction of Khadan Police Station, District Akola till conclusion of trial.

JUDGE

Gohane.