

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.752 OF 2021

Smt. Jivisha @ Jayashree w/o Pankaj Godhwani and others ..vs.. State of Maharashtra, thr. P.S.O. P.S.
Jaripatka, Nagpur, Tah. And Dist. Nagpur.

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

Court's or Judge's orders

Shri A.R. Wagh, Advocate for applicants.
Shri S.M. Ghodeswar, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 15/12/2021

Heard.

2. In anticipation of arrest in Crime No.613 of 2021 registered with police station Jaripatka, District Nagpur for the offence punishable under Sections 120-B, 379, 389, 406, 420, 506 read with Section 34 of the Indian Penal Code, the applicants have prayed for grant of pre-arrest protection.

3. Learned Counsel for the applicants also seeks for ad-interim protection.

4. At the instance of husband of applicant no.1 namely Jivisha @ Jayashree w/o Pankaj Godhwani, the crime was registered. The informant Pankaj stated that on 06/01/2021, he got married with applicant no.1 Jivisha and thereafter resumed co-habitation. After 3-4 days from marriage, applicant no.1(wife) started to harass the informant i.e. her husband. She raised the monitory demand, failing which threatened to involve in false offence. The informant specifically stated that on 26/03/2021, the applicant no.1 left her matrimonial

house by stealing 9 tola gold worth Rs.2,70,000/- and therefore the report.

5. The applicants' learned counsel has pointed out that prior to the lodgment of First Information Report, the very informant has lodged successive reports with the police however cognizance was not taken. Particularly, he has attracted my attention to the informant's report dated 26/03/2021 and 05/04/2021 to contend that in those earlier reports absolutely there was no allegation of theft of gold worth Rs.2,70,000/-. Careful examination of report dated 26/03/2021 which was the first reaction of informant states that on that day applicant no.1 left the house by taking her own gold ornaments. Thus, prima facie the report dated 26/03/2021 totally contradicts the contents of First Information Report about stealing gold ornaments.

6. The informant's learned Counsel in resistance submitted that applicant no.1 is habituated to trap various persons for extracting money. He has produced the documents to show that in past, applicant no.1 had married with somebody else and in matrimonial proceedings, she has settled the matter for sum of Rs.25,00,000/-. Moreover, it is brought to the notice that in the year 2017, the applicant no.1 lodged report of rape against some another person. So far as the past instances are concerned, they relates to the facts of those instances. It reveals from the copy of restitution petition filed by erstwhile husband that applicant no.1 has also begotten a son from said marriage. Therefore, it is difficult to hold

that only for the sake of extracting money she has settled with her erstwhile husband. Moreover, it was total domain of erstwhile husband to pay amount by way of settlement. As regards to report of rape is concerned that cannot be construed as false allegation since perhaps the said report may be under investigation or culminated into filing of charge-sheet.

7. At present there are allegations about theft of gold ornaments worth Rs.2,70,000/-. As stated above non-disclosure of said occurrence on the first instance prima facie creates doubts about genuineness of contentions. Though it is argued that the applicant no.1 has cheated and induced informant for marriage, the said submission does not have any merit. So far as the applicant nos. 2 and 3 are concerned, I do not find any convincing material against them. Having regard to all above facts, there is no necessity of custodial interrogation, hence following order:

- (a) Application is allowed.
- (b) Ad interim order dated 02/11/2021 is hereby made absolute upon same terms and conditions.
- (c) The applicant/accused shall continue to attend concerned Police Station on every alternate Sunday in between 12.00 noon to 02.00 pm till filing of the charge-sheet or the period of ninety days whichever is earlier.