

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

CRIMINAL APPLICATION (ABA) NO. 857 OF 2019

(Nikunj s/o Ramakant Harlalka and ors. vs. State of Maharashtra thr. P.S.O., P.S. Shegaon
City, District Buldhana)

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

Court's or Judge's orders.

Shri Shyam Dewani, Adv. for the applicants.
Shri H.D. Dubey, APP for the non-applicant / State.
Shri A.S. Mardikar, Sr. Adv. with Shri S.V. Sirpurkar,
Adv. for intervenor / complainant.

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CORAM : PUSHPA V. GANEDIWALA, J.
JANUARY 21, 2021.

Heard.

2. The applicants apprehend their arrest in Crime No. 483/2019 for the offence punishable under Sections 498-A, 365, 506 read with Section 34 of the Indian Penal Code registered at Police Station Shegaon, District Buldhana.

3. Pending hearing of this application, an attempt for mediation is made. During this period the applicants have been protected and their protection is continued from time to time. However, the mediation could not be materialized.

4. I have heard Shri Dewani, learned counsel for the applicant, Shri Dubey, learned

Additional Public Prosecutor for the State and Shri Mardikar, learned senior counsel with Shri Sirpurkar, learned counsel for the complainant / intervenor to assist the prosecution.

5. The applicant No. 1 is the husband, applicant No. 2 is the mother-in-law and applicant No. 3 is the brother-in-law of the complainant. The marriage of the complainant with the applicant No. 1 was solemnized on 15/05/2010.

6. On 06/11/2019, the complainant lodged report at police station Shegaon stating therein several incidents of physical and mental harassment at the hands of the applicants during the period between 01/11/2017 to 06/11/2019. The crux of her allegations with regard to harassment is that the appellants were considering the complainant as suffering from mental illness. She also narrated about the incident of her examination at Mental Hospital against her consent. There are allegations with regard to the attempts on the part of the appellants to mix poison in her food.

7. I have perused the affidavit-in-reply filed on behalf of the State and the documents annexed.

8. At the outset, considering the nature of offence and the allegations, in the considered opinion of this Court custodial interrogation of the applicants

are not necessary. Furthermore, no *prima facie* case for the offence punishable under Section 365 of the Indian Penal Code is appearing.

9. Learned Additional Public Prosecutor submitted that the applicants were not co-operating during investigation. This submission of learned A.P.P. can be sorted out by imposing suitable conditions. Furthermore, on query being made about the progress of the investigation during the period of one year, the learned A.P.P. could not state anything for want of instructions.

10. Considering the nature of the offence and the allegations, this Court is inclined to grant pre-arrest bail to the applicants, however, on the stringent conditions :

(i) In the event of arrest, the applicants
– (1) Nikunj s/o Ramakant Harlalka,
(2) Smt. Urmila w/o Ramakant Harlalka and (3) Nishant s/o Ramakant Harlalka, be released on personal bond of Rs. 25,000/- (Rs. Twnety five thousand) each with one surety each in the like amount.

(ii) The applicants shall co-operate during investigation and make available

themselves as and when required by the Investigating Officer.

(iii) The applicants shall not give threats to the witnesses or tamper with the evidence.

(iv) Whenever the applicants are desirous of travelling abroad they shall seek appropriate permission from this Court.

11. The criminal application stands disposed of accordingly.

JUDGE

D.S. Baldwa

Corrected as per
Court's order dated
31/01/2023