

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.29 OF 2022

AKASH S/O BALIRAM WAGHMARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicants : Mr. S. B. Paikrao
APP for Respondent-State : Ms. Vaishali Patil Jadhav
.....

CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving The Order :
31-01-2022**

**Date of Pronouncing The Order :
23-02-2022**

ORDER :

1. The applicants are apprehending their arrest in connection with Crime No.398 of 2021, registered at Hingoli City Police Station, District Hingoli, for the offences punishable under Section 120-B, 324, 328, 498-A, 420, 406, 506 (2) read with 34 of the IPC.
2. Heard learned Advocate Mr. S. B. Paikrao for applicants and learned APP Ms. Vaishali Patil Jadhav for respondent -State.
3. It has been vehemently submitted on behalf of the applicants that applicant No.1 is the husband of the informant and applicant No.2 is the mother-in-law. Informant and applicant No.1 got married on 28-06-2020 and the FIR has been lodged on 14-12-2021. It appears that the

informant had intention not to cohabit with the applicant at Hingoli as she is resident of Mumbai. She has made every kind of allegations. All the family members have been roped. Allegation is in respect of demand of dowry, alleged illicit relations of applicant No.1 with other lady, misappropriation of her *Stridhan*, forcible administration of poisonous substance, as well as cruelty mental as well as physical, and also the cheating. Therefore, all kinds of allegations are included in the FIR. In fact, no such incidence as narrated in the FIR had ever taken place. The father of the informant is a influential political person and by misusing his position, he has caused the crime to be registered afterthought and in consultation with experts. Neither applicant No.1 nor applicant No.2 had administered any sort of antiseptic liquid to the informant and it will not attract the charges under Section 328 of IPC. The applicants are accepting that the father of the informant had transferred amount of Rs.50,000/-, but it was with free Will for the booking of the marriage hall due to the lockdown and to seek permission from the concern authorities. In the meanwhile, the said amount has been returned to the informant's father in cash by the applicants. Applicant No.2 is 50 years old lady suffering from arthritics, she is unable to walk without support and medical paper has been produced to that extent. Further, it was properly represented to the informant that applicant No.1 is a teacher. Due to lockdown, the

schools were closed and he was not attending his service, but it was mistaken by the informant that she has been cheated. The applicant has produced on record the identity card showing that he is working with Ujwal Play School, Hingoli, since July 2018 as primary teacher. But due to lockdown, it is stated that he lost his job and his certificate issued by the principal of the school would show that he worked there till March 2020. The custodial interrogation of the applicants is not required. The applicants are ready to abide by the terms of the bail.

4. Learned APP strongly opposed the application and submitted that as per the FIR the marriage talks started from October 2019. The talks were finalised on 16-12-2019, however, in March 2020 the lockdown started and though it was tried to be contended that the marriage would be around 28th of June 2020, applicant No.1 was insisting that it should be performed hurriedly. But it was accordingly performed on 28-06-2020 and prior to that amount of Rs.50,000/- was sent by her father to the account of mother-in-law. All the details have been given as to what had happened with her in a very detailed FIR. The character of applicant No.1, his habits have been stated and as to how the mother-in-law was taking side of the husband in spite of those bad habits of the husband. She was assaulted and on 19-03-2021 applicant No.2 had administered antiseptic liquid to the informant. She

was admitted to Nakade Hospital, Hingoli. The medical papers from that hospital have been collected which support her statement that she was admitted in that hospital. It is then stated that the history that was given was consumption of dettol and in one document it is stated that consumption of poison. Therefore, taking into consideration the allegations made, definitely custodial interrogation of the applicants is necessary.

5. It is to be noted that the FIR that has been lodged by the informant is running in four to five pages. She has given details from the point when the marriage proposal was discussed, when the marriage talks were finalized, what was finalised, and what were the plans as to the marriage i.e. the conduct of the applicants. Thereafter also she states that how the marriage was preponed when there was proposal from their side that it should be performed in Diwali, but then due to the insistence by applicant No.1, it was performed on 28-06-2020. All the minute details have been given, and according to her on the next day of marriage as decided, her father had given furniture as per the choice of applicant No.1 to him. She states that she was treated properly for about one week, and thereafter, she could notice that her husband is addicted to liquor and chewing tobacco as well as smoking cigarettes, which was not disclosed to her earlier. Thereafter,

she states that on the pretext that the finance is short for purchase of car, the present applicants had decided to sell the gold chain which was given to applicant No.1 at the time of marriage. She states that applicant No.1 had assaulted her under the influence of liquor many times. Her parents used to give advice to the applicants whenever the informant used to tell them about the treatment that is given to her. Thereafter, she states that she could note that applicant No.1 had an extramarital affair, and after she came to know about it, when she refused to have sexual intercourse with applicant No.1, he had given cigarette burns to her right hand and assaulted her. She was, thereafter, also assaulted for one or other reason, and amount was demanded from her husband. On 19-03-2021 it is stated that the applicant No.2 had administered the antiseptic liquid to her because of which she was required to be admitted to hospital. She states that her father had given amount of Rs.3,95,000/- also to applicant No.1 for purchase of car. She has also stated that it was represented to her that applicant No.1 is teacher but she could notice that he was not going for his job nor classes were conducted online. That information about the job of applicant No.1 turned out to be false, and therefore, she states that she was cheated. The evidence that has been collected up till now is in the form of statements of witnesses who are corroborating the FIR and also the documents from Nakade

Multispeciality Hospital, where the informant was admitted on 19-03-2021. It supports the FIR stating that she was admitted with history of consumption of antiseptic dettol /poison. It is to be noted that at this stage the applicants have not put a defence that the informant had consumed it in anger or to teach them lesson. Further, the documents regarding employment of applicant No.1 would show that he was employee till March 2020 only, that means, on the date of marriage he was not in service. The FIR would show that the manner in which the marriage was got preponed, and everything has been taken by the prosecution, is hatching of a conspiracy by the accused persons.

6. Taking into consideration all these allegations and the evidence that has been collected up till now, definitely a thorough investigation is required. The defence that has been raised cannot be considered at this stage, as that defence will have to be proved by the accused persons at the time of trial. *Prima facie* there is supporting evidence, and therefore, when *prima facie* involvement of the applicants is shown, discretionary relief cannot be granted in favour of the applicants. Hence, application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.