

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

924 ANTICIPATORY BAIL APPLICATION NO.1602 OF 2021

SACHIN RAMA MASKE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Salunke Sudarshan J.
APP for Respondent-State : Mr. N. T. Bhagat

...
WITH APPLN/261/2022
IN
ABA/1602/2021

ARTI SACHIN MHASKE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...
Advocate for Applicant : Mr. M. P. Gandle
APP for Respondent No.1-State : Mr. N. T. Bhagat
Advocate for Respondent No.2 : Mr. S. J. Salunke

...
CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 20-01-2022

PER COURT :

1. Criminal Application No.261 of 2022 has been filed for assist to learned APP. Said application is allowed and disposed of.
2. In ABA No.1602 of 2021, the applicant is apprehending his arrest in connection with Crime No.275 of 2021, dated 11-12-2021, registered with Dharur Police Station, District Beed, for the offence punishable under Section 307, 323, 504, 506 of the Indian Penal Code.

3. The learned Advocate appearing for the applicant submitted that informant who is the wife of applicant had lodged earlier also an offence against the applicant and his family members vide Crime No.161 of 2021 with the same police station for the offence punishable under Section 307, 498-A, 504, 506 read with 34 of the Indian Penal Code. The applicant and other accused persons therein have granted anticipatory bail by this Court on 26-08-2021. There is dispute pending between the husband and wife before the Family Court at Beed which is lodged by the present applicant for divorce. In fact, the marriage between the applicant and the informant was performed on 04-08-2020, but immediately thereafter the differences arose between them. As per the applicant since November 2020 the informant is not residing with him. There was threat given by the informant to the applicant that she would commit suicide and would implicate the applicant and his family members, and therefore, the applicant who is the police constable, had given an application to his superior on 16-12-2020 so that the informant should be restrained from thinking of taking extreme step. Now, in the present First Information Report she states that the incident had taken place on 09-12-2021 and on that day she had attended the Family Court proceeding along with her mother. After

the proceeding work was over, she was returning with her mother in auto rickshaw to Pahadi Dahiphal where she is residing. She then states that the applicant had chased her and insisted that she should sign on the divorce form and should take back the offence which has been registered earlier by her. It is then alleged that the applicant had assaulted her. In fact, no such incident had taken place, but this has been done just to see that the applicant is removed from his service. The First Information Report has been lodged with ulterior motive. Nothing is required to be seized from the applicant. There is no question of applicant getting absconding as he is employee in police service. He is ready to abide by the terms of the bail.

4. Per contra, the learned APP well assisted by learned Advocate Mr. Gandle appearing for the informant strongly opposed the application and submitted that there is evidence that has been collected up till now showing that there is involvement of the applicant in the commission of the crime. Since the applicant is in police department, he is pressurizing the informant. He has used the iron pipe to cause injuries to the informant. Though the injuries those have been sustained are simple in nature, the offence is serious. The criminal antecedents of the applicant are required to be

considered and the duration between the first offence and the present offence is also required to be considered. There are eye-witnesses to the incident who are independent, and therefore, the applicant does not deserve any sympathy.

5. At the outset, it is to be noted that the applicant appears to be the person who has filed petition for divorce against the informant and that too it was filed on 17-12-2020 with Family Court, Beed. It is contended therein that the husband and wife are residing separately since November 2020. Copy of the Vakalatnama which has been produced on record of the informant, appearing in that matter, is dated 18-03-2021. The earlier First Information Report Crime No.161 of 2021 was lodged on 16-07-2021 and the present First Information Report is dated 11-12-2021. The incident in the present First Information Report appears to have taken place on 09-12-2021 and the First Information Report has been lodged on 11-12-2021, which appears to be belated. However, the Medico Legal Certificate issued by Rural Hospital, Kille Dharur, District Beed, would show that the informant was examined at about 07.20 p.m. on 09-12-2021. The certificate does not say about the history and also states that she had gone on her own directly to the hospital.

Two injuries have been noted. One is abrasion over right hand below elbow and another is abrasion over right knee. Both the injuries are stated to be simple in nature. Though it is stated that they are possible by hard and blunt object, it is to be noted that the injuries are on hand and knee. Under such circumstances, whether the offence under Section 307 of Indian Penal Code would get attracted, itself is a question. It has been stated by the prosecution that the iron pipe is required to be recovered. But when the injuries are simple, whether this reason can be taken into consideration for denying any relief to the applicant, is a question. Further, the police papers, especially the Medico Legal Certificate states that it is provisional, but then it is state that the patient was referred to the Swamy Ramanand Teerth Rural Medical Hospital and College, Ambajogai, and as per the report of that hospital dated 27-12-2021, there are no significant abnormalities detected. Further, there is also Medico Legal Certificate of the mother of the informant issued by the Swamy Ramanand Teerth Rural Medical Hospital and College, Ambajogai, but there is no Medico Legal Certificate of this witness issued by Rural Hospital, Kille Dharur, District Beed. This certificate also states that she has blunt trauma lower back and it is stated to be simple. So as regards both the injured are concerned, the

injuries appear to be simple, and therefore, even at this prima facie stage it can be observed that ingredients of Section 307 of the Indian Penal Code are not prima facie made out. Under the said circumstances, the applicant deserve to be released on bail. The interim protection granted by this Court on 23-12-2021, deserves to be confirmed. Hence, the order.

ORDER

- 1) Criminal Application No.261 of 2022 filed for assist to learned APP is allowed and disposed of.
- 2) ABA No.1602 of 2021 stands allowed.
- 3) The interim protection granted by this Court on 23-12-2021 to the present applicant Sachin Rama Maske stands confirmed. In other words, in the event of arrest of the applicant Sachin Rama Maske, in connection with Crime No.275 of 2021, registered with Kille Dharur Police Station, District Beed, for the offence punishable under Section 307, 323, 504, 506 of the Indian Penal Code, he be released on PR of Rs.25,000/- (Twenty-five thousand) with one or more sureties in the like amount.
- 4) He shall not tamper with the evidence of the prosecution in any manner.

**(SMT. VIBHA KANKANWADI)
JUDGE**

vjg/-.