

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.182 OF 2022

SANTOSH LALCHAND SHIVNEKAR AND ANOTHER
AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicants : Mr. S. V. Suryawanshi
APP for respondent-State : Mr. A. M. Phule
.....

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 07-03-2022

ORDER :

1. Applicants are apprehending their arrest in connection with Crime No.1 of 2022, registered with Sakri Police Station, Taluka Sakri District Dhule, for the offences punishable under Section 498A, 406, 313, 504, 506 read with 34 of the IPC.
2. Heard learned Advocate Mr. S. V. Suryawanshi for applicants and learned APP Mr. A. M Phule for respondent-State. In order to cut short, it is stated that both of them have made submissions in support of their respective contentions.
3. Informant is the daughter-in-law of applicants. Informant got married with the son of applicants on 25-06-2020. In the FIR she

alleges that at the time of settlement of marriage, though it was stated that the boy is not serving anywhere, but promise was made that he would get a service in the near future. Because of the said representation, she gave consent, but in the same meeting applicant No.1 told the parents of the informant that they should give the amount of Rs.12 lakh as dowry, as they have requiring amount of Rs.25 lakh for getting a job for the bridegroom. Therefore, her mother had given cash of Rs.4 lakh, then she had transferred amount of Rs.30,000/- to the account of applicant No.1. Thereafter, the marriage was performed wherein gold ornaments were given to her. After the marriage, she realized within seven to eight days that her husband is taking some tablets before going to bed. When she asked, nobody told anything about it and she was scolded for that. But then she get the information from google that it is in respect of mental illness. When she made inquiry with her husband and mother-in-law, they had threatened her and asked her to keep quiet. According to her, her parents were called at Pachora on 17-10-2020 and some documents were got written from them, which was not allowed to be read by her. She then says that she became pregnant and was taken to Lilawati Hospital on 12-01-2021 and 20-01-2021. She then states that the other relatives of the husband

were called and without giving much information to her, she was taken to hospital on 27-01-2021 for abortion. Because of the injection, she had lost her consciousness and when she regained, the doctor told that in view of the request by her parents-in-law, she has been aborted. After they went to the house, her parents were called. There were dispute between them, but they avoided to lodge report. She was asked to go along with the parents and threats were given. It is then stated that her gold and silver jewellery was taken by the accused persons. After she was driven out of the house, she lodged a report with the Women Cell at Dhule, where no settlement could take place, and therefore, she lodged the report on 01-01-2022.

4. Thus, the contents of the FIR would show that except Section 313 of IPC, for other sections, the directions of the Hon'ble Apex Court in *Arnesh Kumar vs State Of Bihar reported in 2014 (8) SCC 273*, would have been followed by the Investigating Officer. Only because Section 313 of IPC is punishable more than seven years, the apprehension of arrest is expressed by the applicants. As regards the said section also it is to be noted that there appears to be the matrimonial dispute going on between the informant and the

son of the applicants, almost immediately after the marriage. Two notarized documents have been got executed on 15-07-2020 and 17-10-2020 wherein it appears that the informant and her parents, who were the signatories, had admitted certain contentions that is against the informant. Further, there is also What's App message showing that the informant was asking divorce from the son of the applicants. Further, the son of the applicants has also lodged two proceedings, one is Regular Criminal Case No.2 of 2022, before the Judicial Magistrate First Class, Pachora, under Section 109, 313, 315, 318, 465 read with 34 of IPC. Though it was lodged before the Judicial Magistrate First Class on 03-01-2022, there are recitals that he had given a written complaint after the refusal of taking down the complaint by Pachora Police, by post on 18-12-2021. When he has that document, then it will have to be stated that he was the person first in time to make allegation that the abortion is illegal and it has been carried out without informing him by the wife. Later on the present FIR appears to have been lodged by the informant. Further, another private complaint has also been filed by him in the Court of Judicial Magistrate First Class, Pachora on 23-12-2021, under Section 420 of IPC which is against the informant and her parents. The son of the applicants has also filed Hindu Marriage Petition for

divorce on 01-01-2022, before the Civil Judge Senior Division, Jalgaon, under Section 13 (1) A, 13 (1) B of Hindu Marriage Act. The present FIR being the outcome of the family dispute, cannot be ruled out.

5. The police papers do show that husband of the informant was taking treatment from Unde Hospital who is M.D. Psychiatrists and it appears from August 2019. A certificate has also been issued by Shri. Bhausaheb Hire Government Medical College and Hospital, Dhule on 07-02-2022, and it states that the son of the applicants was admitted in psychiatric ward on 05-02-2022, and he is suffering from Mental illness and diagnosed as Schizo-affective disorder in partial remission. However, it appears that statement of Dr. Unde has not been taken up till now. Statement of one Dr. Vaibhav Suresh Suryawanshi attached to Lilawati Hospital has been taken. From his statement it appears that the abortion has not been done in Lilawati Hospital though it has been so stated by the informant. Taking into consideration these rival claims, the custodial interrogation of the applicants is not required for the purpose of investigation. This Court had granted interim relief to the applicants on 17-02-2022 and that order deserves to be confirmed, accordingly

it is confirmed. Hence, following order.

ORDER

- 1) Application stands allowed.
- 2) The ad-interim protection granted by this Court on 17-02-2022, is hereby confirmed and made absolute. In other words, if applicants are not formally arrested, in the event of arrest of applicants Santosh Lalchand Shivnekar and Mangala Santosh Shivnekar, in connection with Crime No.1 of 2022, registered with Sakri Police Station, Taluka Sakri District Dhule, for the offence punishable under Section 498A, 406, 313, 504, 506 read with 34 of IPC, they be released on PR of Rs.30,000/- each with two solvent sureties of Rs.15,000/- each.
- 3) Applicants shall not tamper with the evidence of prosecution in any manner.
- 4) Applicant No.1 shall attend the Sakri Police Station, District Dhule, on every Monday in between 10 a.m. to 12.00 noon, till filing of charge-sheet.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.