

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.267 OF 2022

KAMAL W/O MUKUND SONAWANE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. P.P. More, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 17<sup>th</sup> MARCH, 2022

PRONOUNCED ON : 08<sup>th</sup> APRIL, 2022

**ORDER :**

1           The applicant is apprehending her arrest in connection with Crime No.36/2022 dated 31.01.2022 registered with Chandanzira Police Station, Dist. Jalna, for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code, 1860.

2           Heard learned Advocate Mr. P.P. More for the applicant and learned APP Mr. A.M. Phule for the respondent.

3           It has been vehemently submitted on behalf of the applicant after

taking this Court through the contents of the First Information Report that the contents appeared to be false and concocted. It is highly impossible that poison will be given to the informant and she will not resist in doing so. Further, the incident had occurred on 28.01.2022 and the First Information Report has been lodged on 31.01.2022. The inordinate delay has not been explained. The informant appears to have mala fide intention to book the entire family of the applicant and put the family in trouble. The applicant is serving as a Nurse and the informant herself is also a Nurse. She had consumed some poisonous substance on her own as it appears and due to the fear of criminal action she has concocted the story. The custodial interrogation of the applicant is not necessary. Co-accused have been released on anticipatory bail by the learned Additional Sessions Judge, Jalna on 17.02.2022. Applicant is ready to co-operate with the investigation.

4            Learned APP has strongly objected the application and submitted that the glass as well as the medicine/poisonous substance used in the commission of the offence is yet to be seized and the applicant is absconding since the date of offence. The medical papers show that there was poisonous substance in the stomach of the informant and, therefore, stomach wash was given. Stomach wash as well as the other articles have been sent for chemical analysis. Custodial interrogation is therefore required.

5           It is to be noted that the informant is the daughter-in-law of the applicant. She resides in the same house in two separate rooms with her husband. In the other part of the house her in-laws as well as brother-in-law and his wife are residing. She states that at about 11.00 a.m. on 28.01.2022 the applicant had taken informant's stone, which she uses for washing clothes, as well as the rope, on which clothes are put after wash. She, therefore, asked the applicant, as to why her stone and rope has been taken. She then states that the applicant started slapping and assaulting her. Her father-in-law gave her abuses. Her husband as well as brother-in-law and sister-in-law were in the house, but nobody spoke anything. She then went to the Police Station and lodged report. After she came back to house the applicant asked her why she has given complaint to the police. She was again assaulted by the applicant and abused by the father-in-law and mother-in-law. Sister-in-law also abused and then the applicant had brought a glass containing water, in which something was put. Her hands were caught hold of by the brother-in-law and his wife. Her legs were caught by the husband and father-in-law and then applicant forcibly administered the water from the glass to her. After consuming she started vomiting. Then, the applicant told that she should not be allowed to die in the house and, therefore, she was taken to hospital. Applicant told that she has administered poison to her and she should die in the hospital and should not return back to the house.

After she was treated at Government Hospital, she was admitted to Shatayu Hospital by her husband and brother-in-law. She works in the same hospital.

6           At the outset, the triggering point appears to be very much trifle. The dispute started because of the stone and rope. The police papers show that the statements were recorded. Statement of the present applicant was also recorded on 01.02.2022. That means, after the offence was registered still she was not arrested by police. Statement of one Pooja Rahul Sonwane, who appear to be residing in front of the house of applicant and informant, shows that she was talking with applicant at about 2.00 p.m. when the husband of the informant came from his room and he was shouting on the informant that she should go to hospital. Applicant and this witness Pooja went towards the room of the informant and asked informant's husband as to what has happened. The husband of the informant told that informant has consumed medicine and she is not willing to go to hospital. In the meantime, the brother-in-law of the informant brought vehicle and all of them forced informant to sit in the vehicle and took her to hospital. This is an independent witness. Statements of the brothers of the informant Gautam Vitthal Vahule, Vishal Vitthal Vahule, father Vitthal Vahule, mother Shivkanya Vitthal Vahule have been recorded, but their statements are hearsay. Therefore, as on today there is the statement of an independent witness Pooja

stating that no such incident as alleged in the First Information Report had taken place.

7           The medical report given by Dr. Kishor Teple of Shatayu Hospital shows that the informant had given history of RODENTICIDE (Ratol cake) poisoning. It is water soluble and oral poisoning. They had given the patient with RT wash and sample of which was given to the Investigating Officer and at the time of admission the patient was stated to be conscious and oriented. It is then stated that she had an abrasion on the right cheek and superficial wound around 2 x 0.5 c.m. below left eye. Only on the basis of these observations, it cannot be said that it was the forcible administration of poisonous substance. The forensic report of the stomach wash is still awaited. From the statement of the informant under Section 164 of the Code of Criminal Procedure it appears that her relation with her in-laws is not good. Now, when she states that she was residing with the husband then why she should involve her husband, is a question. Only on the count that she has lodged report against the mother, the husband will not take part in the act of administration of poisonous substance. Under such circumstance, when the independent witness has stated that no such incident has taken place, the applicant deserves protection. Hence, following order.

**ORDER**

1           Application stands allowed.

2           In the event of arrest of the applicant viz. **Kamal w/o Mukund Sonawane**, in connection with Crime No.36/2022 dated 31.01.2022 registered with Chandanzira Police Station, Dist. Jalna, for the offence punishable under Section 307 read with Section 34 of the Indian Penal Code, 1860, she be released on P.R. Bond of Rs.30,000/- (Rupees Thirty Thousand only) with two solvent sureties of Rs.15,000/- ( Rupees Fifteen Thousand only) each.

3           The applicant shall not indulge in any criminal activity nor she should tamper with the prosecution evidence, in any manner.

4           She should cooperate with the investigation and shall remain present before the Investigating Officer, on every Sunday, between 10.00 a.m. to 12.00 noon, till filing of charge sheet.

5           Observations above are restricted for the decision of this application. The learned Trial Judge to come to the conclusion on its own on the basis of the evidence that would be adduced.

( Smt. Vibha Kankanwadi, J. )