

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.295 OF 2022

MUKESH S/O DIGAMBHAR KAMBLE
AND OTHER TWO
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. R. O. Awasarmol
APP for Respondent-State : Ms. Vaishali Patil Jadhav
Advocate for Assist to APP : Mr. Shaikh Wajeed Ahmed

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**WITH
CRIMINAL APPLICATION NO.1022 OF 2022
IN ABA/295/2022**

CHANDANA W/O MKESH KAMBLE
VERSUS
THE STATE OF MAHARASHTRA
AND OTHER THREE

.....

Advocate for Applicant : Mr. Shaikh Wajeed Ahmed
APP for Respondent No.1-State : Ms. Vaishali Patil Jadhav
Advocate for Respondents No.2 to 4 : Mr. R. O. Awasarmol

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**CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 11-04-2022**

ORDER :

1. Criminal Application No.1022 of 2022 has been filed for assist to learned APP. Said application stands allowed and disposed of.
2. The applicants are apprehending their arrest in connection with

Crime No.19 of 2022, dated 26-01-2022, registered with Purna Police Station, Taluka Purna District Parbhani, for the offence punishable under Section 498-A, 323, 504 r.w.34 of IPC.

3. Applicant No.1 is the husband of the informant. Applicants No.2 and 3 are the mother-in-law and father-in-law of the informant.

4. Heard learned Advocate Mr. R. O. Awasarmol for applicant, learned APP Ms. Vaishali Patil Jadhav for respondent-State, well assisted by learned Advocate Mr. Shaikh Wajeed Ahmed for informant. In order to cut short, it is stated that both of them have made submissions in support of their respective contentions.

5. Perusal of the FIR lodged by the wife of applicant No.1 would show that their marriage was performed on 27-12-2020 and at that time her father had given cash of Rs.5 lakhs as dowry, motorcycle, 2½ tola of gold ornaments, gold ring, silver ornaments and domestic articles. Applicant No.1 is serving as Technician with MSEDCL. The informant has stated that within two days of marriage, mother-in-law and sister-in-law started taking objections about not giving articles by her father at the time of marriage. The other relatives of

the husband used to instigate the husband who used to then harass her mentally as well as physically. According to her, applicant No.1 had not consummated the marriage and whenever he used to come to Nanded, he used to go along with his friends and had habit of drinking liquor. When she asked as to why he is behaving in that way, the applicant had assaulted her. So also the in-laws had confined her in a room by tying her hands and legs. She has stated that her ornaments were taken by the in-laws. She had then stated about the incident to her parents. Her father gave words of advice to the husband, and thereafter, the applicants started demand of Rs.10,00,000/- for purchasing a plot at Nanded. Her husband took her to Nashik on 31-03-2021, however, there was no change in his behaviour. She was driven out of the house on 27-04-2021. There were steps for mediation and settlement of dispute, however, there was no proper response from the applicants, and therefore, she says that she has lodged the report.

6. At the outset, it can be seen that the entire family has been tried to be roped by the informant. Perusal of the police papers do not show that the directions given in the case of *Arnesh Kumar vs. State of Bihar*, reported in 2014(8) SCC 273, were followed in this

case. This Court in *Anticipatory Bail Application No.237 of 2022 (Imran Ali s/o Ashraf Ali Vs. The State of Maharashtra, decided on 04-04-2022)* has given detailed order as to how a case involving offence under Section 498-A, 323, 504, 506 r.w.34 of IPC should be considered. Detailed discussion has been made in respect of directions given in *Arnesh Kumar (Supra), Social Action Forum for Manav Adhikar and Another Vs. Union of India Ministry of Law and Justice and others, reported in AIR 2018 SC 4273*, in which except one clause the decision/directions in *Rejesh Sharma and others vs. State of U.P. and Another, reported in AIR 2017 SC 3869*, have been reiterated. Further, the decisions in *Joginder Kumar vs. State of U.P., reported in (1994) 4 SCC 260*, *D.K. Basu vs. State of W.B., reported in (1997) 1 SCC 416*, and other cases were noted. It was then observed that as per *Joginder Kumar (Supra)* there should be some reasonable justification in the opinion of the officer effecting the arrest that such arrest is necessary and justified is required to be considered. Only prima facie case against the person is not the sole criteria to be looked into. But taking into consideration all those aforesaid catena of Judgments it will have to be considered whether the arrest is necessary. Those observations are reiterated in this case and arrest of the applicants is absolutely not necessary in this

case. The investigation of the case can still go on by making the applicants available for the purpose of investigation, and therefore, the interim protection granted by this Court on 15-03-2022 deserves to be confirmed, accordingly it is confirmed. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) The interim protection granted by this Court on 15-03-2022 to the present applicants is hereby confirmed. In other words, in the event of arrest of the applicants No.1 Mukesh s/o Digambhar Kamble, No.2 Shobha w/o Dogambhar Kamble and No.3 Digambhar s/o Laxman Kamble, in connection with Crime No.19 of 2022, registered with Purna Police Station, Taluka Purna District Parbhani, for the offence punishable under Section 498-A, 323, 504 r.w.34 of IPC, they be released on P.R.Bond of Rs.30,000/- each with two solvent sureties of Rs.15,000/- each.
- 3) Applicants No.1 and No.3 shall attend Purna Police Station, Taluka Purna District Parbhani, on every Sunday in between 10.00 a.m. to 02.00 p.m.
- 4) They shall not indulge in any criminal activity nor shall tamper with the prosecution evidence, in any manner.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.