

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.466 OF 2022

1. Vimalbai Vishwanath Pawar
 2. Bhushan Vishwanath Pawar
- ... Applicants

Versus

1. The State of Maharashtra
 2. The Superintendent of Police
- ... Respondents

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Mr. Tapan Kishor Sant, Advocate for applicants.

Mr. A. M. Phule, APP for the respondents – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 06.05.2022

ORDER :-

1. The applicants are apprehending their arrest in connection with Crime No.44 of 2022 registered with Deopur Police Station, Dist. Dhule for the offences punishable under Sections 498, 307, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. It will not be out of place to mention here that the police appears to have wrongly register the offence under Section 498 of Indian Penal Code, which ought to have been under Section 498-A of Indian Penal Code taking into consideration the contents of the FIR.

3. Heard learned Advocate Mr. Tapank K. Sant for the applicants and learned APP Mr. A. M. Phule for the respondents – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

4. The FIR has been lodged by Aashabai Bhushan Pawar, who is the wife of applicant No.2 and daughter-in-law of applicant No.1. Applicant No.2 and informant got married in the year 2015 and it is stated that it was the second marriage of the informant. She states that they went to the house in Dhule in pandemic situation as the company, where applicant No.2 was serving in Aurangabad, was closed down. There was painting work going on in the house and applicant No.2 started raising suspicion over the character of the informant when he found that the informant was talking to the painter. Applicant No.2 used to abuse and assault informant, however, as the harassment was not sustainable to her, she went to her parental home at Wadibhokar in June, 2019. She stayed there for about one and half year and then since last 4 years, she is residing in two rooms in the same house, where the applicants are residing. The informant states that the applicants were insisting that she should not reside at that place and, therefore, in order to evict her, they had started harassing her physically and mentally. The incident took place on 21.02.2022 when the applicants had taken away the fan as well

as cot from the room in occupation by the informant. The cousin sister of the informant was called by her and she went to demand fan to the applicants, at that time, the applicants got annoyed with the informant and after abusing her, had assaulted her by kicks and fists. On the next day morning also they abused her and then applicant No.2 brought phenyl bottle and then applicant No.1 caught hold of her hands and applicant No.2 forcibly administered the phenyl to her. The mother and cousin sister of the informant took her to Dhule Civil Hospital in ambulance.

5. Applicant No.1 appears to had lodged a complaint with Sub-Divisional Officer, Dhule under the provisions of Section 5 and 22(2) of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 against the informant on 12.01.2022. It appears to be the trigger point for the informant to lodge the report.

6. The police papers show the discharge card as well as Medico Legal Certificate, which states that the alleged history about the admission of the informant is ingestion of unknown poisonous compound. The papers also show that the spot panchanama has been executed. Statements of witnesses have been recorded and certain articles have been seized from one Kalpesh Sahebrao Jagtap. He is stated to be the brother of the

informant and he has produced the clothes of the informant and one phenyl plastic bottle. If we consider the statement of said Kalpesh Jagtap, he says that the cousin sister Aashabai Pawar had given the plastic bottle with phenyl to the doctor on demand and, therefore, it has been submitted with Hire Medical College Hospital and it is with them. He also states that the said bottle has been deposited with the hospital authorities by sister - Soni. The question, therefore, arises how that bottle had come in the hands of Kalpesh Jagtap on 24.02.2022 when in his statement dated 23.02.2022 he is giving the said account. Now, nothing is required to be seized from the applicants as the evidence collected is showing the fact that even said phenyl bottle has been seized. Statement of cousin sister of informant – Soni Pawar would corroborate the said statement regarding deposit of the phenyl bottle by Kalpesh Jagtap. She as well as Kalpesh have stated that at about 9.30 a.m. on 22.02.2022, informant gave them call and told that her husband and mother-in-law are beating her and, therefore, all of them went to the house of informant at about 9.45 a.m. They could find that the informant was lying in the house. It is then stated that the husband had gone in the next room. Therefore, admittedly they are not the eye witnesses to the incident. There appears to be matrimonial dispute between them and in view of the fact that the substantial investigation

appears to have been made uptill now and yet the CA report has not been received, therefore, the physical custody of the applicants is not required. By asking them to co-operate with the investigation and giving attendance would suffice in view of the fact that already certain dispute has reached the Court. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) In the event of arrest of applicant No.1 – Vimalbai Vishwanath Pawar and applicant No.2 – Bhushan Vishwanath Pawar in connection with Crime No.44 of 2022 registered with Deopur Police Station, Dist. Dhule for the offences punishable under Sections 498, 307, 323, 504, 506 read with Section 34 of Indian Penal Code, they be released on P. R. Bond of Rs.50,000/- with two solvent sureties of Rs.25,000/- of each.
- III) They shall remain present before the Investigating Officer on every Monday and Thursday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet and co-operate with the investigation.
- IV) They shall not tamper with the evidence of the prosecution in any manner.
- V) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]