

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

932 ANTICIPATORY BAIL APPLICATION NO.1070 OF 2022

1. KIRAN RAMCHANDRA LOKHANDE
2. RAMCHANDRA DAGDU LOKHANDE
3. RAJESHWAR RAMCHANDRA LOKHANDE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Gangakhedkar Shailendra S.
APP for Respondent-State : Mr. S. B. Narwade.
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CORAM : S. G. MEHARE, J.
DATE : 26.08.2022

PER COURT :-

1. Heard the learned counsel for the applicants and the learned APP for the respondent-State.
2. The applicants have a case that the complainant was not interested to cohabit with applicant No.1. On 26.09.2019, applicant No.1, husband of the complainant took her to the hospital at Vishnupuri, Nanded. However, without intimating anybody, she left the hospital. An inquiry was made about her but it was revealed that she did not go to her parents' house. Therefore, the missing report was lodged on 27.09.2019. Since then, the complainant never returned to the house of the applicants. However, she has cooked absolutely a false story

that her brother-in-law tried to outrage her modesty and commit forceful sex with her. The applicants have a specific case that after 26.09.2019, the complainant never returned to their home. The last incident as allegedly happened in the month of August 2020 during the lock down. The entire story put forth by the complainant is false. She was insisting her husband to give a divorce. However, the applicants were not ready to give her divorce. She was making false allegation against her husband that he is impotent. She was never ill-treated. The parents of the complainant were also shocked when they were told that she has left from the hospital at Nanded. Thereafter, they searched and found that she was at Parbhani and she was living in a rented room. The applicants went to explain and fetch her back, but she was flatly denied. Considering the allegations, no case against the applicants is made out. Their custodial interrogation is not essential.

3. Learned APP has strongly opposed the application contending that there were serious allegations of attempt to commit forceful sex and outraging the modesty of the complainant. The applicants ill-treated her mentally and physically. The offence is grave, therefore, the applicants are not entitled for the anticipatory bail.

4. Perused the papers produced by the learned APP. Applicants have evidence that the complainant left their home on 26.09.2019, when she was taken to the hospital for treatment. The police papers further reveal that the parents of the complainant themselves searched the complainant and found at Parbhani. She was living there alone in a rented room. The missing report was lodged by the applicant. The statement of parents of the complainant actually supports the case of the applicants. The alleged incident happened after the complainant left the house of the applicants. It also appears that she was insisting the applicants for divorce. The applicants also went to Parbhani to fetch her back, but she denied to join their company. It appears that the complainant was not interested to cohabit with the applicant-husband. She wanted to have a divorce. The reason best known to her why she went to Parbhani instead of her parents' house. The entire facts reveals that some different story is there but a story of attempting to commit forceful sex and outraging the modesty has been brought. Considering the facts as discussed above, this Court is of the view that this is not a fit case for custodial interrogation. Therefore, the application deserves to be allowed. Hence, the following order :

ORDER

- (i) The application is allowed.
- (ii) The interim protection granted to the applicants by the order dated 11.08.2022 stands confirmed on the same terms and conditions.

(S. G. MEHARE, J.)

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vmk/-