

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

**26 ANTICIPATORY BAIL APPLICATION NO.1060 OF 2022
WITH APPLN/2638/2022 IN ABA/1060/2022**

HARISH RAMAN LOHAR
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Tungar Nikhilesh K.
APP for Respondent-State : Mr. K. S. Patil.
Advocate for Complainant to assist APP : Mr. Kulkarni S. S.

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CORAM : S. G. MEHARE, J.
DATE : 26.09.2022

PER COURT :-

1. Heard the learned counsel for the applicant, the learned APP for the respondent-State and learned counsel for the Complainant.

2. It is not in dispute that the marriage was performed 17 years back. Considering the arguments advanced by the learned counsel for the applicant and the learned counsel addressing for the Complainant, the husband and wife had quarrels and settlements on many occasions. It is alleged that a day before the incident, there was a meeting of the relatives of both sides. In that meeting, the applicant agreed to pay and bear the expenses of his son and the complainant/wife. Then,

she returned to Aurangabad. But the applicant stayed in Nashik with his parents. On 17.07.2022, he returned home. At 11.00 p.m., the Complainant demanded him the money for his and her son's expenses. That time, he denied it. She forced him to follow the terms, as he agreed in the meeting. Thereafter, he asked her to bring Rs.10,00,000/- from her parents and started beating her. Then, she made a phone call to her father-in-law. The father-in-law asked her to resolve the problems on their own. It has also been alleged against the applicant that he assaulted her with slaps, iron bracelets and kicks. Then, he took her into the room and attempted to do unnatural intercourse with her. She was opposing him. Hence, he assaulted her on her legs, head, back and on her private part. Her son intervened and rescued her. Her son made a phone call to the police. After that, the applicant fled away from the house with cash of Rs.2,00,000/- and her golden ornaments. On the basis of these allegations, the crime has been registered.

3. Learned counsel for the applicant has vehemently argued that the allegations levelled against the applicants are false. On the contrary, she assaulted him with a belt and caused him injuries. In the scuffle, she might have suffered injuries. Not only this, she might have herself scratched with nails. She was

not behaving properly in the house. She had a suspicion against him that the applicant had an extra-marital relationship with his sister-in-law. Many times, he was convinced, but she did not listen. He never demanded her dowry. She was aggressive. She caused injury to him. Nothing is to be recovered from the applicant. Hence, the interim protection granted to the applicant may be confirmed.

4. Learned APP has vehemently opposed the application. He has referred the Medical Certificate and the history narrated by her to the Medical Officer. He has also referred to the statements of the relatives of the Complainant and vehemently argued that the applicant ill-treated the Complainant and attempted to commit unnatural intercourse with her.

5. Learned counsel appearing for the Complainant has vehemently argued that the applicant was harassing her since the beginning. On the day of the incident, he used to be aggressive and assaulted the Complainant mercilessly. He has attempted to do unnatural intercourse. He ensured to pay money to her and her son, but he did not pay. Since the day of the incident, he has been absconding. The offence is serious. Hence, the application may be rejected.

6. Per contra, learned counsel for the applicant submits that considering the situation of quarrel in the home, it was quite impossible to commit the sexual assault. False allegations have been levelled against him only to make the offence serious.

7. Perused the papers. It is not in dispute that the husband and wife were, fighting since the beginning. They had a settlement many times. A day before the incident also, there was a family meeting, and the dispute was settled. Soon after the arrival of the husband from Nashik, the next day, the applicant started demanding him money. The document placed on record by the learned APP does not support the allegations of so-called unnatural sexual assault. She has a scratch injury on her forehead, both thigh and abdomen. It indicates that there was a fight. The injuries sustained are simple in nature. The son did not support serious allegations levelled by the Complainant. There is no material to indicate that there was a subject of demand for dowry in any of the family meetings.

8. Considering the papers and the way in which the incident happened, it is nothing but a matrimonial dispute, and both have assaulted each other. Having regard to the injuries sustained to the Complainant, there appears to be no use of

any weapon. Therefore, the custodial interrogation of the applicant would serve no purpose. Hence, the following order:

ORDER

- (i) The application is allowed.
- (ii) The interim protection granted to the applicant by the order dated 11.08.2022 stands confirmed on the same terms and conditions.
- (iii) Criminal application No.2638 of 2022 is allowed.

(S. G. MEHARE, J.)

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vmk/-