

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 725 OF 2022

1. Mrs. Sugalabai Nilappa Biradar .Applicants
2. Vitthal Nilappa Biradar

Vs.

The State of Maharashtra .Respondent

**WITH
BAIL APPLICATION NO. 1307 OF 2022**

1. Dundappa Nilappa Biradar .Applicants
2. Nilappa Dhundappa Biradar
3. Dhareppa Nilappa Biradar

Vs.

The State of Maharashtra .Respondent

Mr. Kuldeep S. Patil with Ms Saili N. Dhuru, Advocate, for the Applicants in both matters

Mr. A. A. Palkar, APP, for the Respondent - State in both matters

CORAM : VINAY JOSHI, J.

DATE : 26.04.2022

P. C.

. Both Applications arise out of C. R. No. 39 of 2022 registered at Umadi Police Station, District - Sangli for the offence punishable under Sections 313, 498A, 323, 504, 506 r/w 34 of the Indian Penal Code.

2. The Applicants namely Sugalabai & Vitthal (in ABA No. 725 of 2022) are claiming pre-arrest bail whilst another Applicants viz. Dundappa, Nilappa and Dhareppa (in B. A. No. 1307 of 2022) are seeking for regular bail.

3. Besides usual grounds, it is contended that there is an inordinate delay of three months in lodgment of FIR. The informant's statement is of general nature. The allegations are vague. Moreover, the statements of Medical Officers do not support the case of miscarriage.

4. The State resisted bail by pointing towards the seriousness of offence.

5. The Applicants are husband, father-in-law and brother-in-law of victim lady. The victim got married with Dundappa in the year 2018. After marriage, she resumed co-habitation at her matrimonial house with all Applicants. After few days from marriage, she was subjected to harassment on the count that she delivered two female

babies. It is the informant's case that on 18.10.2021, all the Applicants have asked her to consume some medicine. Particularly, the victim's husband - Dundappa gave the medicine on which she was admitted to the hospital. It was transpired that poisonous substance was given. However, she was recovered. The informant stated that on 13.12.2021, while she was carrying pregnancy, once again all the Applicants requested to take pills as well as forced her to take four pills. In the result, she became unwell and started bleeding. The victim was hospitalized and ultimately, she was aborted. On the basis of such allegations, report has been lodged.

6. The police have arrested above named three Applicants, who are claiming regular bail. After facing custodial interrogation, they are in Magistrate custody. The investigation is complete and charge-sheet has been filed against them. The Applicants' learned counsel took me through the statements of Medical Officers to contend that story of forcible administration of pills is suspicious. It is pointed out that none of the Medical Officers stated about

the history nor even supported the case that the patient had consumed pills. Similarly, I have gone through the Medical papers which also do not specify about the consumption of pills. Rather it conveys the case of excessive bleeding. Perusal of FIR discloses that omnibus allegations are made against all the Applicants. Specific instances have not been quoted besides above incident. Already the victim's husband against whom the main allegations are levelled has faced custodial interrogation.

7. The Applicants' learned counsel brought to the notice that after the second incident, husband had issued a legal notice for restitution. He would submit that the said notice was prior to the lodgment of FIR. According to him, in order to make excessive demand within two days from the preparation of Gift Deed, false report has been lodged. True, after the second incident, legal notice has been issued. Pertinent to note that while the victim was in the hospital, her father who is the resident of the same village was present. Despite that there was long delay of three months in lodgment of FIR. Having regard to all above facts,

custodial interrogation of the Applicants in ABA No. 725 of 2022 is not necessary. Likewise, as rest of the Applicants have faced custodial interrogation and charge-sheet is filed, their detention is no more required.

8. In view of that, the following order is passed.

ORDER

(A)

- (i) ABA No. 725 of 2022 is allowed;
- (ii) In the event of arrest, the Applicants namely in Mrs. Sugalabai Nilappa Biradar and Vitthal Nilappa Biradar in C. R. No. 39 of 2022 registered at Umadi Police Station, District - Sangli for the offences punishable under Sections 313, 498A, 323, 504, 506 r/w 34 of the Indian Penal Code, be released on interim bail on his furnishing P. R. Bond of Rs. 25,000/- each with one or two sureties in the like amount;
- (iii) Both the Applicants shall attend the concerned police station on every Sunday in between 10.00 a. m. to 12.00 noon to facilitate the investigation till filing of supplementary charge-sheet or for a period of 90 days

whichever is earlier;

(iv) The Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence;

(v) ABA No. 725 of 2022 stands disposed of.

(B)

(i) BA No. 1307 of 2022 is allowed;

(ii) The Applicants namely Dundappa Nilappa Biradar, Nilappa Dhundappa Biradar and Dhareppa Nilappa Biradar in C. R. No. 39 of 2022 registered at Umadi Police Station, District - Sangli for the offences punishable under Sections 313, 498A, 323, 504, 506 r/w 34 of the Indian Penal Code, be released on bail on his furnishing P. R. Bond of Rs. 25,000/- each with one or two sureties in the like amount;

(iii) The Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence;

(iv) BA No. 1307 of 2022 stands disposed of.

(VINAY JOSHI, J.)