

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

ANTICIPATORY BAIL APPLICATION NO.251 OF 2022

Gautam Sadu Kadam and another Applicants
Versus
The State of Maharashtra Respondent

Mr. Milan Desai, Advocate i/b. T.R. Patel for the Applicants.
Smt. A.A. Takalkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 31st JANUARY, 2022
[Through Video Conferencing]

P.C. :

1. The applicants are seeking anticipatory bail in connection with C.R.No.1496/2021 registered at Malvani Police Station, Mumbai on 31,12,2021 under Sections 498-A, 354, 354(3) of the Indian Penal Code.

2. Heard Shri Milan Desai, learned counsel for the applicants and Smt. A.A. Takalkar, learned APP for the State.

3. The FIR is lodged by applicant No.1's daughter-in-law. She got married with applicant No.1's son on 30.11.2020.

Thereafter she started residing with applicant No.1's family consisting of informant's mother-in-law, brother-in-law, his wife and the informant's husband. After one month from the marriage, it was revealed to the informant that her husband was suffering from T.B.. Therefore, she was asked to sleep separately in a room where applicant No.1 and informant's mother-in-law were sleeping. There are specific allegations that on one occasion, applicant No.1, in the night, when she was sleeping; came near her and outraged her modesty. She complained about the same to her husband, but, he ignored and instead abused the informant. The informant left their house for a couple of weeks but her husband had brought her back on the assurance that she would be treated properly. But when she came back; applicant No.1 and other family members started abusing and beating her.

4. Applicant No.2 is the grand-son of applicant No.1 i.e. his daughter's son. On one occasion, applicant No.2 went to the kitchen when there was no one else in the house. He forcibly held the informant and kissed her against her wish.

The informant got scared and did not make complaint about the incident to other family members because she was afraid that she herself would be assaulted and abused. She complained to her own mother, but, her mother discouraged her from making any complaint.

5. There are allegations that the in-laws of the informant were harassing her on the ground that the informant's mother had not given anything in marriage. After few days, the informant delivered twins, but, the informant and her daughters' were never taken back to her matrimonial house. There are specific allegations that the informant started residing with her mother and applicant No.2 continued chasing her whenever she stepped out of the house. On this basis, the FIR is lodged.

6. Learned counsel for the applicants submitted that the incident attributed against applicant No.1 was somewhere in December, 2020 or January, 2021, but, the FIR was lodged on 31.12.2021. For a long period, the informant had not made grievance to anybody else.

7. He submitted that as far as the allegations against applicant No.2 are concerned, it is unbelievable that the informant's own mother would discourage her from disclosing the offence committed by the applicant No.2 to anybody else. He submitted that applicant No.2 is 21 years of age and, therefore, instead of his custodial interrogation, he can be directed to attend the concerned police station.

8. He further submitted that applicant No.2's sister was harassed and her modesty was outraged by the informant's cousins for which C.R. No.1358/2021 was registered at Malvani police station and as a counter-blast to that FIR, this particular FIR is lodged.

9. Learned APP opposed this application. She relied on the narration of the informant in the FIR.

10. I have considered these submissions. In the FIR there are direct and specific allegations against both the applicants for their respective acts. In these matters, the delay in lodging the FIR can be explained by the informant, which

she has done in the FIR. The ultimate effect of the delay would be considered during the trial. However, at this stage, there is no reason to disbelieve the version of the informant. The informant herself is 19 years of age. She was continuously harassed by both the applicants and their other family members.

11. Considering the nature of allegations, the offence is serious and, therefore, protection of anticipatory bail cannot be granted to them. The application is rejected.

12. However, since applicant No.2 is 21 years of age and applicant No.1 is a senior citizen, if they are arrested or if they surrender and if they make an application for bail, it shall be considered as expeditiously as possible without being influenced by the observations made in this order. With these observations, the application is disposed of.

PRADIPKUMAR
PRAKASHRAO
DESHMANE

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(SARANG V. KOTWAL, J.)

Deshmane (PS)