

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.535 of 2022

Mahesh Ganpat Dongre and anr	.. Applicants
Versus	
The State of Maharashtra	.. Respondent

...

Mr. Jigar Agarwal i/b Shashikant Mandlik for the applicants.
Mr.P.H. Gaikwad, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 28th FEBRUARY, 2022

P.C:-

1 Heard the learned counsel for the applicants and learned APP for the State.

2 The applicants are apprehending their arrest in connection with C.R.No.0309/2021 registered with Gamdevi police station by invoking Section 354, 354B, 354D, 323, 498A, 406m 504, 506 r/w Section 34 of the IPC.

3 Perusal of the FIR lodged by the complainant would reveal that the accusation faced by the applicants are varying from the period 15th June 2011 to 20th April 2019.

Tilak

The complainant has alleged that she was married to the applicant no.1 in the year 2011 and she referred to the demand of money made by her in-laws and also allege that at times, she was insulted and humiliated by her father-in-law i.e. applicant no.2. Vaguely, she described that she was also subjected to harassment by other members of the family and the specific instances described by her in regard to molestation at the instance of applicant no.2 is of the year 2019 when it is alleged that the applicant no.2 outraged her modesty while she was alone at home. Another incident given is during Ganpati for the same year and the complaint further contain various allegations about when she was required to leave her matrimonial house and stay with her father and she demanded her *streedhan* back, which was refused. The complaint though contained vague allegations against the applicant no.2, there are no specific allegations against the applicant no.1 who is her husband, except stating that when the incident of her sexual assault was specifically mentioned to her husband, he failed to pay any attention or take cognizance thereof. This resulted in registration of FIR while invoking Sections 354B and 354D. The allegations about demand and dowry made vaguely in registration of Section 498A also against both the applicants.

4 The learned APP has placed on record a statement of the complainant recorded u/s.164 of the Cr.P.C, where she reiterates the incident in great detail.

5 On perusal of the FIR, it is apparent that the accusations faced by the applicant no.2 is from the year 2011 to 2019, and except barring two incidents which are set out in the FIR, which implicate the applicant no.2, being of the year 2019 without any specific date being mentioned and another incident during the time of Ganpati, again without a specific date being mentioned, it is to be noted that the complaint for the first time is noted in the year 2021. *Prima facie*, it is apparent that the matrimonial discord between the husband and wife appear to be prevailing and that is the reason why the complaint came to be lodged implicating the father-in-law at a belated stage i.e. October 2021. By looking to the nature of allegation and accusations, they do not warrant any custodial interrogation, particularly when the applicant no.2 is aged 67 years.

Learned counsel for the applicants have stated that the applicants have reported to the police station and have co-operated with the Investigating Officer, when the Investigating Officer is specifically asked whether the custody of the applicant no.2 is required for further investigation, or his attendance is warranted, he give instructions to the learned APP to make a

statement that for the purpose of investigation, the applicant no.2 shall be called as and when necessary.

6 In the wake of the above, taking a prima facie view of the matter, both the applicants are released on bail.

ORDER

- (a) In the event of their arrest, the Applicant no.1 -- Mahesh Ganpat Donge and applicant no.2 Ganpat Laxman Dongre, in connection of C.R.No. 309/2021 registered with Gamdevi police station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/-each with one or two sureties of the like amount.
- (b) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) The Applicants shall make themselves available as and when required by the Investigating Officer.

The Application is allowed in the aforestated terms.

SMT. BHARATI DANGRE, J