

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 916 OF 2022

Ashwini Ashok Pujari & ors. ...Applicants

Versus

State of Maharashtra ...Respondent

WITH

INTERIM APPLICATION NO. 1330 OF 2022

Anushka Vijay Kakade ...Intervener

In the matter between

Ashwini Ashok Pujari & ors. ...Applicants

Versus

State of Maharashtra ...Respondent

Mr. Harshad Nimbalkar, a/w Satyam Nimbalkar, for the
Applicants.

Ms. M. R. Tidke, APP for the State/Respondent.

Mr. Ashish Chavan, i/b Mr. Sumant Deshpande, for the
Intervener.

CORAM: N. J. JAMADAR, J.

DATED: 28th JUNE, 2022

ORDER:-

1. This is an application for pre-arrest bail in connection with with CR No.61 of 2022, registered with Kothrud Police Station, Pune, for the offences punishable under Sections 498-A, 494, , 406, 420, 324, 342, 509, 323, 504, 506 (2), 500 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code") and Sections 3(2) and 3(3) of the Maharashtra Prevention and Eradication of Human Sacrifice and Other

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Inhuman, Evil and *Aghori* Practices and Black Magic Act, 2013 and Section 66-E of the Information Technology Act, 2000.

2. The abovenumberd crime has been registered on the basis of the First Information Report lodged by Mrs. Anushka, the wife of co-accused, Vijay. Apart from the applicants rest of the accused are the relatives of the husband of the first informant. The applicant No.1 is the housemaid and applicant No.2 is the priest, who allegedly solemnized the marriage and performed other objectionable rituals in the matrimonial home of the first informant.

3. By an interim order dated 5th April , 2022, this Court was persuaded to continue the interim protection granted by the Court of Session on 29th March, 2022.

4. The first informant lodged a report that her marriage was solemnized with Vijay on 6th May, 2021. Since the date of marriage, her husband Vijay, father-in-law Suryakant, mother-in-law Kavita, brother-in-laws Jay and Ajay, subjected her to physical and mental cruelty. She was relieved of her Stridhan. Though Vijay had pursued only a diploma, it was falsely represented that Vijay had completed B. E. (Civil) and

thereby the first informant was deceived to marry him. The husband and her relatives made unlawful demand of property and in order to coerce her to meet the said unlawful demand, she was subjected to harassment.

5. It was further alleged that the applicant No.1, who was a housemaid also harassed the first informant and claimed that, her status in the matrimonial home was no less than that of first informant's mother-in-law. The applicant No.1 allegedly instigated the first informant's father-in-law to harass her. The applicant No.1 gave a liquid, which was stated to be a magic potion prepared by applicant No.2 – priest to help to conceive a boy, at the instance of her mother-in-law. The applicant No.2 also gave allegedly scared lemon to place below the pillow and made them to perform rituals which were degrading.

6. Mr. Nimbalkar, the learned counsel for the applicants, submitted that the allegations of harassment and ill-treatment are primarily against the husband and in-laws of the first informant. The applicant Nos.1 and 2 are roped in for their proximity to the husband and relatives of the husband of the first informant. In an identical report lodged by the sister of the first informant, who is married to co-

accused Jay, the learned Sessions Judge was persuaded to exercise the discretion to grant the relief of pre-arrest bail to the accused therein. Identical allegations are made in the FIR in question, as well.

7. Mr. Nimbalkar, the learned counsel for the applicant, took the court through the allegations in the FIR qua the applicant Ashwini. The first informant alleges that, she handed over a glass containing a black liquid contending that, her mother-in-law had directed her to drink the said liquid, which was prepared by applicant No.2, Krushna, the priest. The applicant No.1 - Ashwini further stated that, the said potion was given for consumption so that the first informant conceives a male child. Applicant No.1 - Ashwini had also boasted that, her status in the Kakades' house was not second to that of the mother-in-law of the first informant. Ashwini allegedly threatened to instigate her father-in-law to harass the first informant. It was further alleged that, immediately after marriage, applicant No.1 - Ashwini had joined the co-accused in the relieving the first informant of the ornaments.

8. Qua the applicant No.2 - Krushna, the allegations revolve around providing the alleged magic potion and sacred

lemon and other things, and making the first informant and her sister to undergo degrading rituals.

9. In the backdrop of the aforesaid nature of the accusation, the submission on behalf of the applicants that their custodial interrogation is not warranted for effective investigation seems to carry substance.

10. The learned APP and the learned counsel for the first informant - intervenor, however, urged that the aforesaid allegations against the applicants cannot be construed in isolation. If the allegations are considered in the context of the continuous course of harassment pursued by the husband and relatives of the first informant, the complicity of the applicants becomes explicit.

11. I am afraid to accede to this submission. The fact that the applicant No.1, Ashwini, had boasted and claimed a status equivalent to that of the mother-in-law of the first informant, even if taken at par, does not appear to have any incriminating tendency. The allegations of criminal breach of trust by withholding the *stridhan* of the first informant are primarily against the husband and his relatives. Even the act of giving a liquid to consume, which was stated to be a magic potion, was at the instance of the mother-in-law of the first

informant.

12. The allegations against the applicant No.2, Krushna, also appear to be of general nature. The applicant No.2, Krushna had allegedly prepared the magic potion and given the sacred lemons etc. These allegations also do not make out imperativeness of custodial interrogation of the applicant No.2, Krushna, for an effective investigation. The offences essentially have their genesis in the marital discord.

13. In the circumstances, I am persuaded to exercise the discretion in favour of the applicants, especially in the backdrop of the fact that, in an identical FIR lodged by the sister of the first informant, the applicants - also accused therein - have been protected.

14. Hence, the following order:

: O R D E R :

- (i) The application stands allowed.
- (ii) In the event of arrest of the applicants in CR No.61 of 2022, registered with Kothrud Police Station, Pune, they be released on bail on furnishing a P. R. Bond in the sum of Rs.25,000/-, each, with one or two sureties in the like amount.

(iii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(iv) The applicants shall cooperate with the investigation and report to the Investigating Officer as and when directed.

(v) The applicants shall regularly attend the proceedings before the jurisdictional Court.

In view of disposal of ABA/916/2022, the Interim Application No.1330 of 2022 does not survive and stands disposed.

[N. J. JAMADAR, J.]