

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application (ABA) No.550/2022

Ashwinkumar Sanap and others V State of Maharashtra thr PSO PS Sindkhedraja,
Buldhana

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Mr. P.B. Patil, Advocate for applicants.

Mr. V.A. Thakare, APP for State.

CORAM : ANIL S. KILOR, J.

DATE : 27-07-2022

The applicants have approached to this Court by filing the present application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No.0111/2022 registered with Police Station Sindkhedraja, District Buldhana for the offences punishable under Sections 307, 354, 325, 143, 147, 149, 504 of the Indian Penal Code.

2. The learned Counsel for the applicants submitted that the applicants have been falsely implicated in the present offence, which is the outcome of matrimonial dispute.

3. It is submitted that the Whatsapp messages sent by the complainant to the applicant no.1, speak for itself that the

complainant was continuously instigating the applicants. He submits that on the date of incident the applicants were in the Court premises to attend the proceeding in respect of bail in Crime No.13/2022 registered against the applicant at the instance of complainant, for the offence punishable under Section 498-A of the IPC. It is submitted that though complainant's presence was not required, she was present in the Court.

4. On the other hand, learned APP strongly opposed the application and submits that there are statement of witnesses including some Advocates who support the case of the prosecution. Accordingly, he prays for rejection of the present application.

5. I have perused the case diary and the FIR.

6. From the documents filed along with the application, it can be seen that the learned Judge, Family Court, Buldhana, in a proceeding filed under Sections 13(1)(1-a), 13(iii) of the Hindu Marriage Act for divorce, has observed in paragraph 15 as under :-

“15. Thus, from aforesaid evidence, it is clear that respondent wife used to assault Ashvinkumar (PW1). She used to abuse his parents. She drove them out of home. Her behaviour was improper. She even visited work place of Sandip who is brother of Ashvinkumar (PW1) and threatened him that he would be falsely implicated in criminal case of outraging her modesty.

She even tried disturb marital life of sister of Ashvinkumar (PW1) by alleging in anonymous letter that she had illicit relation. Moreover, what'sapp messages (exhibit nos. 25 and 26 collectively) are obscene in nature. They smack of threat. In view of this, I hold that petitioner husband proved that respondent wife has committed cruelty on him. Consequently, I answer point no.1 in the affirmative.”

7. Further the Whatsapp messages filed along with this application, which were sent by the complainant to the applicant no.1, prima facie, show that the complainant was continuously instigating him.

8. Thus, considering the overall conduct of the complainant in the present matter, prima facie, I am of the opinion that the present crime is nothing but an outcome of the matrimonial dispute and continuous instigation and threats given by the complainant to the applicant and his family member.

9. In that view of the matter, I am of the opinion that the custodial interrogation of the applicants is not necessary in this case. Accordingly, I pass the following order:-

ORDER

- i) Application is allowed.

ii) In the event of arrest of the applicants in Crime No.0111/2022 registered with Police Station Sindkhedraja, District Buldhana for the offences punishable under Sections 307, 354, 325, 143, 147, 149, 504 of the Indian Penal Code, the applicants be released on bail on furnishing P.R. Bond of Rs. 15,000/- each with one solvent surety in the like amount.

iii) The applicants shall attend the concerned Police Station as and when their presence is required.

(Anil S. Kilor, J.)