

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 487 OF 2023

Khureshi Shaikh Amer
S/o Shaikh Mahemud & others

Applicants

Versus

The State of Maharashtra & another

Respondents

Mr. N. S. Ghanekar, Advocate for the applicants.
Mr. V. S. Badakh, APP for the State.

CORAM : R. M. JOSHI, J.
DATE : 14th JUNE, 2023.

PER COURT :

1. Applicants are apprehending arrest in connection with Crime No. 121/2023 registered with Shivajinagar Police Station, Dist. Beed, for the offences punishable under Sections 498A, 307, 354, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. Perusal of the First Information Report shows that informant who is wife of applicant No. 1 has given report about the incident occurred on 11th February, 2023. She alleged that on that day her husband came home in drunken state and demanded Rs.5,00,000/- for the purpose of construction of house. When she

told that her father is poor and would not be able to pay that money, he went out of the house and came back with a plastic bottle containing diesel. It is alleged that applicants No. 2 and 3 caught hold of her hands and her husband i.e. applicant No. 1 poured diesel on her person and an attempt was made to set her ablaze. She raised shouts and ran from the house. She got into auto rickshaw and went to police station. She claims that as her mental state was not in order, she did not lodge complaint immediately however, report was lodged to the police on 12th March, 2023 at about 3.48 pm.

3. Learned counsel for the applicants states that there are disputes between the husband and wife. It is contended that when applicant No. 1 was not employed there were no allegations in respect of demand of money and now when he is employed, it does not stand to any reason as to why such demand is made now. It is further stated that since the informant was asking money from her husband to pay the same to her brother and it was refused by her husband, dispute arose between them. It is further contended that there is nothing on record to show that any attempt was made to set the informant on fire. Thus, no case is made out for attracting Section 307 of the Indian Penal Code.

4. Learned APP opposed the application by submitting that the statement of informant about pouring diesel on her person itself is sufficient to show that there was an attempt to kill her. It is further stated that the First Information Report gets support from the statement of auto rickshaw driver who had taken the informant to the police station.

5. Perusal of the First Information Report itself indicates that there were disputes between the informant and her in-laws. As regards the incident dated 11th March, 2023, she contends that she was caught hold by her in-laws and diesel was poured on her person. She raised shouts and then ran away from the house. There is no dispute about the fact that the house of the informant and applicants is in populated area. However, perusal of record does not show statement of any neighbour who either have heard such shouts or seen the informant running from the house. The statement of auto rickshaw driver shows that the informant had disclosed him the incident including her dispute with her husband and in-laws. It becomes doubtful as to how the informant could explain her dispute

with in-laws and her husband in detail while going to the police station when she was under mental stress. There is reason to believe that this witness is got up to support contention of informant in First Information Report.

6. Perusal of investigation papers including spot panchanama does not disclose that any attempt was made to set the informant ablaze. Considering the dispute between the parties, and delay in lodging First Information Report, the possibility of false implication cannot be ruled out. Applicants have no criminal history. In such circumstances, it would be necessary to protect liberty of the applicants. Direction to the applicants to appear before the Investigating Officer will be sufficient for effective investigation. Hence, application is allowed in terms of the interim order.

(R. M. JOSHI)
Judge

dyb