

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 795 OF 2023

MAHADEV S/O BHIKAJI VAIRAL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicants : Mr. S.G. Shinde

h/f. Mr. Bhosle Abhaysinh K.

APP for Respondent : Mr. S.N. Morampalle

CORAM : R.M. JOSHI, J.

DATE : 12th June, 2023

PER COURT :

1. Applicants are apprehending arrest in connection with FIR No. 131 of 2023, registered with Pachod Police Station, District Aurangabad, for the offences punishable under Sections 323, 327, 504, 506 read with 34 of IPC.

2. Informant is wife of applicant no. 1. It is alleged by her that on 15.04.2023 at about 10:00 a.m. applicants came to the paternal home of the informant and her husband had pressurized her to give no objection for obtaining divorce. When she refused to concede the said compulsion, the applicants removed the Mangalsutra and gold ornaments from her neck also committed theft of Rs. 3 lakhs.

3. Learned counsel for the applicant states that there is unexplained delay in lodging FIR. He drew attention of the Court to the report lodged by applicant no. 2 in respect of incident occurred on 15.04.2023, wherein, the relatives of his wife had caused assault on him. To support the said submission, he placed injury certificate which indicates that he had sustained three injuries in the said assault. Thus according to him, the present FIR is lodged by way of counter blast and to save the relatives of the informant.

4. Learned APP opposed the application by stating that the independent witnesses who have witnessed incident dated 15th April, 2023, as alleged in the FIR. Thus, there is *prima facie* evidence to connect the applicant with this crime.

5. Apart from the fact that the informant has not explained the delay caused in lodging the FIR, there is material on record to suggest that an incident occurred on 15.04.2023 at about 01:00 p.m. in which applicant no. 2 was assaulted by the relatives of his wife. This contention of the applicants gets support with the injury certificate indicating applicant no. 2 having received injuries in the said incident.

6. In the light of this fact, unexplained delay in lodging the present FIR creates doubt about its authenticity. This Court, at this stage, finds substance in the contention of the learned counsel for the applicant that the present FIR can be a concoction by way of counter blast to the FIR lodged by the applicant no. 2. Applicants have no criminal history.

7. In the circumstances, directions to the applicants to remain present and co-operate with the Investigation Officer, would be sufficient for further effective investigation. Hence, application stands allowed, subject to following conditions :

ORDER

i. In the event of arrest of applicant in connection with Crime No. 131 of 2023, registered with Pachod Police Station, for the offences punishable under Sections 323, 327, 504, 506 read with 34 of IPC, they shall be released on bail on furnishing PR Bond of Rs. 15,000/- (Rupees Fifteen Thousand only) each with one solvent surety in the like amount.

ii. They shall attend the concerned police station as and when called by Investigating Officer.

- iii. They shall not contact the witnesses directly or indirectly.
- iv. They shall not interfere with the evidence in any manner whatsoever.
- v. They is further directed to co-operate the investigating agency for further investigation.

[R.M. JOSHI, J.]

SPChauhan