



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

944 ANTICIPATORY BAIL APPLICATION NO. 1702 OF 2023

Shoaib Khalil Inamdar And Others

....Applicants

VERSUS

The State Of Maharashtra

.....Respondent

Mr. Shaikh Mazhar A. Jahagirdar, Advocate for Applicants.
Mr. S. B. Jadhav, APP for the State.
Mr. Z. M. Pathan, Advocate for the informant.

CORAM : R. M. JOSHI, J.

DATE : 14th DECEMBER, 2023.

PER COURT :

1. Applicants apprehend arrest in connection with Crime No. 422/2023 registered with Sonai Police Station, Tq. Newasa, District Ahmednagar, for the offences punishable under Sections 313, 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. First informant reported about her marriage being performed with applicant Shoib Khalil on 3rd February, 2023. She claims that she along with her husband and in-laws was residing in the matrimonial home. There is allegation that at the time of marriage dowry was paid to the accused. It is further alleged that after about a month or two of marriage, her husband and in-laws

started suspecting her character and started harassing her on one or the other pretext. In the meantime she conceived. This was informed to her parents. She was taken for few days to her parental home. It is alleged that her in-laws used to pressurise her for miscarriage on the ground that the first child born in the family is abnormal and that they do not want said child. It is also alleged that on 9th August, 2023, mother-in-law of the informant made her to drink milk which was bitter in test. Though she refused to consume the same, she was convinced to consume it. On the next day, bleeding started and hence she was taken to hospital. She claims in First Information Report that she was admitted in the hospital at 6.00 am and on 4.00 pm she came to know from her in-laws that curetine has been done by doctor. On these allegations, report came to be lodged against applicants.

3. Learned counsel for applicants submits that allegations in the First Information Report are not consistent with the document on record. Reference is made to the notice issued to doctor as well as medical papers. It is submitted that though it is alleged in the First Information Report that informant had no knowledge about this, attention of the Court is drawn to the medical papers showing

signature of the informant on consent letter. Thus, according to him, this is a case of false implication owing to the disputes which are now arisen between the parties.

4. Learned counsel for informant and learned APP opposed the application. It is the contention of learned counsel for informant that concerned police station has not recorded the report sought to be lodged by the informant on 23rd August, 2023 and hence she was required to write complaint to Superintendent of Police, Ahmednagar. He drew attention of the Court to letter dated 23rd August, 2023. It is submitted that even request was made to Superintendent of Police, Ahmednagar for change of Investigating Officer. He has also drawn attention of the Court to the notice issued to the doctor who has performed the procedure of curetine. It is his submission that the informant is of young age and since she was newly married she was not in a position to make complaint against her in-laws even to the doctor with regard to administration of contaminated milk. It is his submission that the said grievance has been made for the first available instance by writing complaint to the higher police authority. Learned APP opposed the application by relying upon the statement

of witnesses recorded during the course of investigation and citing seriousness of the crime.

5. Since grievance was made by learned counsel for informant about not registering her report by the concerned police station, PI of concerned police station was called upon to file a report explaining the said circumstance. Said report indicates that on 23rd August, 2023, informant had been to the police station. This Court, prima facie, does not accept the explanation sought to be given by police authorities in respect of non-lodging of report.

6. The question arises as to whether merely because police authorities refused to register report, the other aspects of the matter should be ignored while deciding the application for anticipatory bail. Perusal of the First Information Report shows that the informant claims that on 11th August, 2023 she was taken to hospital and she could not know anything as to what was done with her till 4.00 pm. She does not state that her father and grand mother were also present in the hospital at the relevant time. It is clearly stated in the notice issued to the doctor that father and grand mother of the informant were present in the hospital and they were also

pressurised. Medical papers placed on record by prosecution show that informant was consenting party to curetine and this could be a case of mis-abortion. Thus, on the face of it, the allegations made in the First Information Report are inconsistent with the previous complaint. When there is reason to believe that this could be a case of false implication owing to the matrimonial disputes between the parties, liberty of the applicants deserve to be protected. Nothing is to be recovered at their instance. Hence, application is allowed in terms of interim order.

(R. M. JOSHI)
Judge

dyb