

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

ANTICIPATORY BAIL APPLICATION NO.661 OF 2023

1. Sanjay Prashant Deshmane
2. Prashant Dattatray Deshmane
3. Vijay Prashant Deshmane

...Applicants

Versus

The State of Maharashtra

...Respondent

...

Mr. Viresh Purwant for the Applicants.
Mr. S.V. Gavand, APP for Respondent -State.
Mr. M.M. Petkar, API MIDC Police station, Solapur, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 9th MARCH, 2023.

P. C. :-

1. This is an application under Section 438 of Cr.P.C. filed by the Applicants apprehending their arrest in Crime No.452 of 2022 registered with MIDC Police Station, Solapur City, for the offences punishable under Sections 323, 324, 354, 377, 498-A, 504 and 506 read with 34 of the IPC.

2. Heard Mr. Purwant, learned counsel for the Applicants and Mr. Gavand, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by the wife of the Applicant No.1. The Applicant No.2 is the father and the Applicant No.3 is the brother of the Applicant No.1. The FIR prima facie reveals that the first informant and the Applicant No.1 had eloped and got married on 29/04/2019. They have a child from the said wedlock, who is stated to be two years of age. The first informant has stated that she was residing in her matrimonial home along with her husband and in-laws. Her husband is working in Indian Army and was posted at Asam. The first informant had joined him at his work place. She has alleged that her husband used to abuse and assaulted her for which reason she returned to her matrimonial home at Solapur. She has stated that her in-laws did not treat her well and subjected her to mental cruelty.

4. The omnibus allegations in the FIR do not prima facie constitute 'cruelty; within the meaning of clauses (a) and (b) of Explanation to Section 498-A of the IPC. Furthermore the allegations of unnatural sex were not made in the FIR or the supplementary statement recorded on 18/08/2022 but were made subsequently on 18/11/2022 in the subsequent supplementary statement. The medical

records also do not substantiate the allegations of anal intercourse. The allegations of unnatural sex prima facie appear to be an outcome of matrimonial dispute.

5. Considering the above facts and circumstances, in my considered view this is a fit case to exercise the discretion in favour of the Applicants. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicants in Crime No.452 of 2022 registered with MIDC Police Station, Solapur City, the Applicants shall be released on bail on furnishing PR bonds in the sum of Rs. 25,000/- each with one or two sureties to the like amount;
- (ii) The Applicants shall report to the concerned Investigating Officer as and when required by the Investigating Officer;
- (iii) The Applicants shall keep the Investigating Officer informed of their current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)