

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1019 OF 2021**

1. Akshay Sudesh Jadhav
2. Subham Sudesh Jadhav
3. Rekha Sudesh Jadhav
4. Sudesh Shamrao Jadhav

...Applicants

Versus

The State of Maharashtra and anr.

...Respondents

.....

Mr. Ashok Mundargi, Senior Advocate a/w Ms. Rui Danawala i/b
Mr. Umesh Mankapure for the Applicant.
Mr. Amit Palkar, APP for the State.
Mr. Vijay Killedar for Respondent No. 2.

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CORAM : N.R. BORKAR, J.

DATED : 31 MARCH 2023

P.C. :-

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. I have heard the learned counsel for the applicants, the learned APP for the State and the learned counsel for the respondent No. 2/ complainant.

3. On 21 October 2020, this Court passed the following order:

*“1.The applicants, apprehending their arrest, in
connection with the investigation of Crime No.218*

of 2020 registered with Miraj City Police Station, District- Sangli, under Section 376(2)(n), 377, 498A, 323, 420, 504 and 506 read with Section 34 of the Indian penal Code are seeking anticipatory bail.

2.The applicant No.1 is the husband, applicant No.2 is the brother-in-law, while the applicant Nos.3 and 4 are the parents-in-law of the complainant. The marriage between the complainant and the first applicant was solemnized on 14th September 2019. There are no issues out of the marriage. It appears that the marriage ran into rough weather shortly thereafter.

3.On 08th September 2020 the complainant filed a complainant making certain allegations against the parents-in-law. Prima facie it can be seen that on 08th September 2020 there were no allegations of any sexual abuse made against the applicant No.1 and for the matter of that against applicant No.2 prima facie it appears that on 01st October 2020 the complainant filed the instant complaint alleging that the applicant No.1 had forcible sexual intercourse with her on the promise of marriage prior to 14th September 2019. It is also alleged that the applicant No.2 on a threat of the relations between the applicant No.1 and the complainant being disclosed to the parents had coerced the complainant to have sexual relations with him.

4.Prima facie it can be seen that the marriage between the applicant No.1 and the complainant having materialized, at this stage it cannot be accepted that there is any false promise of marriage. The sexual relations subsequent to the marriage, are within the matrimonial tie. As noticed earlier in the complaint dated 08th September 2020 there are no allegations made against the applicant No.2. The allegations against the applicant Nos.3 and 4 are essentially of certain ill treatment on account of

the demand of money/valuables.

5.It transpired during the course of the hearing that there are complaints and counter complaints lodged by the parties against each other. For instance the applicant No.3 has lodged complaint against the prosecutrix alleging theft. The complainant has also initiated proceedings under the the Protection of Women from Domestic Violence Act 2005.

6.The learned senior counsel for the applicants submitted that it was after the applicant No.1 had filed a petition for Dissolution of Marriage, that the complaint dated 01st October 2020 came to be lodged.

7.Considering the overall circumstances, it appears that the entire dispute is founded on the matrimonial discord between the applicant No.1 and his wife. In that view of the matter, it would be appropriate that the complainant is made the party respondent herein.

8.In the result following order is passed.

ORDER

(i)In the event of their arrest in connection with investigation of Crime No.218 of 2020 registered with Miraj City Police Station, District- Sangli, the applicants shall be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- each, with one or two solvent sureties each in the like amount.

(ii)The applicants shall attend the investigating Officer as and when required and shall co-operate with the Investigating Agency.(iii)Leave granted to add the complainant as respondent No.2. Necessary addition to be made within two weeks from today.(iv)Issue notice to newly added respondent No.2,returnable on 02nd December 2020.

(v)Notice by R.P.A.D./Courier and Private Service is allowed, in addition to the regular mode.

(vi)The interim order shall remain in force till the next date.(vii)Stand over to 02nd December 2020.”

4. The learned counsel for the respondent No. 2/ complainant has drawn my attention to certain statements made in the present application. According to the respondent No. 2/ complainant, the said statements are false. According to her, the applicants are thus not entitled to anticipatory bail and need to be prosecuted for perjury.

5. I have perused the said statements. The said statement appears to be in relation to lodging of the FIR by the applicant No. 3 against the respondent No. 2 for the offence of theft. According to respondent No. 2 in the said crime the Investigating Officer had submitted summary report under Section 169 of the Code of Criminal Procedure and the applicants have not disclosed the said fact in their application. However, in my disclosure or non-disclosure of the said fact is of no consequence for the decision of present application.

6. The allegations in the present case, prima facie, do not inspire confidence and appears to be afterthought. Considering the overall facts and circumstances of the case, I am inclined to allow the present application. Interim order passed by this Court dated 21 October 2020 is hereby confirmed. Application is disposed of.

(N.R. BORKAR, J.)