

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

ANTICIPATORY BAIL APPLICATION NO. 930 OF 2023

1. Satishchandra Rajendra Chaurasia
Age : 27 Years, Occupation : Student
2. Rajendra Dayadin Chaurasia
Age : 62 Years, Occupation : Nil
3. Nirmala Rajendra Chaurasia
Age : 52 Years, Occupation : Housewife
4. Rambrij Rajendra Chaurasia
Age : 39 Years, Occupation : Driver
5. Khushboo Girishchandra Chaurasia
Age : 30 Years, Occupation : Housewife
All are residing at Room No.1,
Laxmi Chawl, Jai Ambe Nagar No.1,
Near Gold Star Bekari, Choupati Road,
Bhayander – West, Dist. Tal. Thane.
6. Aarti Dinesh Chaurasia
Age : 30 Years, Occupation : Housewife
Residing at : Room No.8, Aadarsh Society,
Sundar Baag Lane, Kurla – West,
Mumbai – 400 070.

...Applicants

vs.

State of Maharashtra

[At the instance of Sr.Police Inspector
Navghar Police Station, Palghar]

...Respondent

Mr.Vinayak Patil – Advocate for Applicants.

Mr.H.J.Dedhia – APP for the Respondent-State.

CORAM : S. M. MODAK, J.

DATE : 17th APRIL, 2023

P. C. :-

1. Heard learned Advocate for the Applicants and learned APP for the Respondent-State. The First-Informant is present. She has given instructions to the learned APP.
2. An FIR is registered against in all 6 persons under Sections 498-A, 406, 377, 354, 323, 504, 506, 427 read with 34 of Indian Penal Code, 1860 [“IPC”]. Out of them, Accused No.4 - Rambrij Rajendra Chaurasia is granted regular bail, whereas, rest of them are asking for anticipatory bail.
3. The Applicant No.1 - Satishchandra Rajendra Chaurasia is husband and applicants Rajendra Dayadin Chaurasia and Nirmala Rajendra Chaurasia are in-laws. Applicants Khushboo Girishchandra Chaurasia and Aarti Dinesh Chaurasia are sister-in-laws of the First-Informant. After the marriage, the First-Informant cohabited with these Applicants. In the marriage, she was gifted with certain

ornaments and certain articles. It is mentioned in the FIR. There is allegation that the Applicant Satishchandra earlier tried to have a carnal intercourse in an unnatural way and the mother-in-law Nirmala was told about this fact by the first informant but she has not paid any heed to it. My attention is invited on behalf of the Applicants to the complaint dated 17th January, 2023 filed by the husband Satishchandra to Bhayander Police Station. He has quoted the entire incidents. There is also mention that the First-Informant has left the matrimonial house along with the ornaments.

4. My attention is also invited to a purshis filed before the Court of Additional Sessions Judge on behalf of the Applicants. It is on Page No.81. They have shown readiness to handover certain articles mentioned therein. It does not consist of ornaments.

5. Learned APP submitted that the complaint dated 17th January, 2023 was in fact not given on 17th January, 2023. It is true that there is an endorsement of Bhayander Police Station but in the copy, date is not visible. Learned APP invited my attention to the complaint lodged by the First-Informant to Bharosa Cell – Bhayander on 17th January, 2023. It is on Page No.35.

6. It is true to say that in the said complaint, she has made

allegation only against the husband and mother-in-law. However, learned Advocate for the Applicants is not right in his submission that in the said complaint, there is no grievance about the allegation which falls within the purview of Section 377 of IPC. There is allegation of sexual harassment and pain which she has undergone thereafter which indicates an offence under Section 377 of IPC. Hon'ble Supreme Court in case of *Navtej Singh Johar and Others V/s. Union of India*¹ has made it clear that any act of the description covered under Section 377 of IPC done between the individuals without consent would invite penal liability under that Section. (Para No.267). Considering the facts, it cannot be said that the acts alleged are with consent.

7. Considering the above, I do not think that case is made out for anticipatory bail so far as husband is concerned. So far as rest of the Applicants are concerned, I am inclined to grant anticipatory bail. I am inclined to grant it to the mother-in-law also, even though there is allegation that she has not paid any heed in the complaint dated 17th January, 2023. Because, except not paying heed, there is no further allegation. Her custodial interrogation is not required.

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Furthermore, today also, learned Advocate for the Applicants submitted that his clients are ready to handover the articles as mentioned in the list on Page No.81.

8. Learned App through the First-Informant has shown me certain photographs thereby showing that certain articles and ornaments were handed over in the marriage and showing some injury to the person of the First-Informant.

9. So, that may be the position when the marriage was performed. After the marriage, various events took place. There are allegations and counter allegations including allegation about ornaments. First-Informant claims that she was not having it whereas applicant husband claims that they were taken by her. It is disputed issue. An opportunity of custodial interrogation needs to be granted to the police. Because it is important piece of evidence. So on this ground also, the applicant husband is not entitled for protection from arrest. Hence, following order :-

ORDER

- (A) Anticipatory Bail Application in respect of Husband - Applicant No.1 - Satishchandra Rajendra Chaurasia is rejected.

(B) In case of arrest in connection with C.R.No.149/2023 registered at Navghar Police Station – Bhayander(E) - Thane for the offences punishable under Sections 498-A, 406, 377, 354, 323, 504, 506, 427 read with 34 of IPC, following Applicants :-

(i) Applicant No.2 – Rajendra Dayadin Chaurasia

(ii) Applicant No.3 – Nirmala Rajendra Chaurasia

(iii) Applicant No.4 – Rambrij Rajendra Chaurasia

(iv) Applicant No.5–Khushboo Girishchandra Chaurasia

(v) Applicant No.6 – Aarti Dinesh Chaurasia

be released on furnishing personal bond and surety bond of Rs.25,000/- on following conditions :-

(a) To produce the articles mentioned in the list at Page No.81 within a period of three weeks to Navghar Police Station – Bhayander(E) – Thane. Police are at liberty to seize them by following the procedure.

(b) Applicant Rajendra Dayadin Chaurasia is directed to give attendance to Navghar Police Station – Bhayander(E) – Thane on Friday from 10.00 to 12.00 noon until filing of charge-sheet.

(c) They are directed not to threaten the Prosecution witnesses or allure them in any manner.

10. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own

merits, in accordance with the law, uninfluenced by the observations made in this order.

11. Application is disposed of in the aforesaid terms.

12. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]