

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

CRIMINAL APPEAL NO.853 OF 2022

Vanita Motichand Belkire Appellants

versus

State of Maharashtra & Anr. Respondents

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- Mr. Mayuresh Ingale a/w Jayveer Yadav, Advocate for Appellants.
- Mr. S. R. Agarkar, APP for the State/Respondent No.1.
- Mr. Ajit M. Savagave (Appointed) Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd FEBRUARY, 2023

P.C. :

1. The Appellant has challenged the order dated 22/07/2022 passed by the Special (Atrocity) Judge and the Additional Sessions Judge, Pune, in Criminal Bail Application No.4674 of 2022. Vide the same order, anticipatory bail was granted to the Appellant's husband and her son. In effect the Appellant is seeking anticipatory bail in connection with C.R. No.425/2022 registered with Bharati Vidyapeeth Police Station,

Pune, on 28/06/2022 u/s 498-A r/w 34 of the Indian Penal Code and u/s 3(1)(r) & 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act'). The proforma of the FIR mentions that the offence was committed between the period 15/02/2021 to 07/03/2021 and the FIR is lodged on 28/06/2022.

2. Heard Mr. Mayuresh Ingale, learned counsel for the Appellants and Mr. Ajit M. Savagave, learned counsel for Respondent No.2 and Mr. S. R. Agarkar, learned APP for the State.
3. The FIR is lodged by the Respondent No.2. She has stated that she got married with the Appellant's son Atul on 15/02/2021 at Dehu Alandi. According to her, Atul was knowing that she is belonging to a scheduled caste. But he had not informed his family i.e. the Appellant and others about this fact. Atul did not pay the fees of the mediator who had fixed their marriage and therefore that mediator told the Appellant and other family members about this fact. The Respondent No.2 has

specifically mentioned in the FIR that she had stayed in the house of Atul only for about 20 days. During that period, the Appellant did not allow her to cook food or touch any article. She was not allowed to use toilet in the house. The Appellant's husband used to instigate Atul for causing quarrels between the couple. She has further stated that Atul and the Appellant abused her with reference to the caste and told her to go back to her parental house. It is alleged that the Appellant was also harassing her because the Respondent No.2 had not given sufficient gold in the marriage. The Appellant and her son Atul used to threaten to commit suicide if the Respondent No.2 continued to reside with Atul. On 06/04/2021 Atul and the Appellant's husband i.e. Atul's father left the Respondent No.2 to her parent's house and then she was not taken back to her matrimonial house. The Respondent No.2 approached the police and other reconciliation forums. But the situation did not improve and finally she lodged this FIR.

4. Learned counsel for the Appellant submitted that the

husband of Respondent No.2 is already arrested and granted bail. The other two accused i.e. Appellant's husband and the other son were granted anticipatory bail. He submitted that the main ingredients of section 3(1)(r) & 3(1)(s) of Atrocities Act are that, such humiliation should be in a public view. However, the FIR itself shows that the incident had taken place inside the house and not in presence of any person or any neighbour or public. Therefore the offence of Atrocities Act is not made out and therefore, the bar u/s 18 of the Atrocities Act will not be attracted. He submitted that the Appellant is an old lady and her custodial interrogation on this allegation is not necessary. For all other allegations her case stands on the same footing as the co-accused who are granted anticipatory bail.

5. Learned counsel for the Respondent No.2 opposed these submissions. He submitted that though the FIR is lodged belatedly, in June 2022, the Respondent No.2 was having hope that the situation would improve and she would be taken back to her matrimonial house and therefore no fault can be found in

lodging the FIR after more than a year. He further submitted that the humiliation suffered by the Respondent No.2 is serious enough. There are allegations of demand of gold and therefore the Appellant should not be granted anticipatory bail.

6. Learned APP supported the submissions of the learned counsel for the Respondent No.2.

7. I have considered these submissions. It is basically a matrimonial dispute. The allegations were made by the Respondent No.2 much belatedly. The proforma of the FIR itself shows that the period of offence was between 15/02/2021 to 07/03/2021 and yet the FIR is lodged on 28/06/2022. The FIR itself shows that the Respondent No.2 had hardly stayed for a period of around 20 days in her matrimonial house. The Appellant's case stands on the same footing as those of the other co-accused, who are granted anticipatory bail. There is sufficient force in the submissions of learned counsel for the Appellant that the provisions of section 3(1)(r) & 3(1)(s) of the Atrocities Act will not be attracted in this particular case.

8. Considering all these factors, the Appellant has made out case for grant of anticipatory bail.

9. Hence, the following order :

ORDER

(i) The Appeal is allowed.

(ii) In the event of her arrest in connection with C.R. No.425/2022 registered with Bharati Vidyapeeth Police Station, Pune, the Appellant is directed to be released on bail on her furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties, in the like amount.

(iii) The Appeal is disposed of.

(SARANG V. KOTWAL, J.)