

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

ANTICIPATORY BAIL APPLICATION NO. 2970 OF 2023

Yogita @ Yogini Yogesh Patil ...Applicant
Versus
State of Maharashtra ...Respondent

AND

ANTICIPATORY BAIL APPLICATION NO. 2971 OF 2023

1. Gopal Prakash Patil
2. Mangalbai Prakash Patil
3. Prakash Tulshiram Patil
4. Sagar Prakash Patil ...Applicants
Versus
State of Maharashtra ...Respondent

Mrs. Prabha Badadare, i/b Meghashyam Kocharekar, for the
Applicants.
Mr. P. H. Gaikwad, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.
DATED: 25th OCTOBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.
2. These applications are for pre-arrest bail in connection with CR No.750 of 2023 registered with Narpoli Police Station, Thane City, for the offences punishable under Sections 307, 313, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

3. Sagar Patil – applicant No.4 in ABA/2971/2023, is the husband of the first informant. Their marriage was solemnized on 7th March, 2021. Applicant Nos.1, 2 and 3 are the in-laws of the first informant.

4. The first informant alleged that within a month of marriage, she realized that Sagar had a relationship outside marriage with the applicant in ABA/2970/2023. On 8th May, 2021, the first informant was allegedly forced to abort the foetus as the applicant in ABA/2970/2023 insisted that applicant No.4 Sagar in ABA/2971/2023 shall not father a child. The first informant further alleged that the applicants in ABA/2971/2023 subjected her to harassment in order to coerce her to meet unlawful demand. A sum of Rs.3,00,000/- was paid in cash. On 14th October, 2021 the first informant was allegedly forcibly administered poison with intent to kill her. As applicant No.4 Sagar had threatened her, she did not report to police that the applicants had forcibly administered poison and instead stated that she had herself consumed the poison.

5. The learned Counsel for the applicants submitted that the FIR came to be lodged after about two years of the alleged miscarriage without the consent of the first informant and

forcible administration of the poison. In the meanwhile, on 2nd November, 2022 the applicant No.4 Sagar had lodged report at Malkapur Police Station of the assault by the relatives of the first informant when they had been to the parental home of the first informant on 29th October, 2022 to fetch her. Attention of the Court was invited to the photographs of the injuries sustained by the applicants in ABA/2971/2023. It was further submitted that another FIR was lodged by the first informant at Malkapur Police Station being CR NO. 451 of 2022 for the offences punishable under Sections 354-A, 354, 323, 452, 143, 147, 148, 149, 504 and 506 of the Penal Code in respect of the said incident. The applicants were released on pre-arrest bail in connection with the said crime.

6. Mr. Gaikwad, the learned APP, submitted that in the statement of the first informant recorded under Section 164 of the Code of Criminal Procedure, 1973, the first informant has reiterated the allegations. Thus, the allegations in the FIR find corroboration and therefore the applicants do not deserve pre-arrest bail.

7. *Prima facie*, there is inordinate delay in lodging the report. The alleged incident of causing miscarriage without

the consent of the first informant occurred on 8th May, 2021. The alleged incident of the applicants allegedly administering poison took place on 14th October, 2021. Instant FIR came to be lodged on 6th September, 2023. From the perusal of the allegations in FIR No.451 of 2022 lodged by the first informant it becomes evident that since the incident dated 14th October, 2021 the first informant had been residing at her parental home. *Prima facie*, there does not seem any reasonable explanation for the delay in lodging FIR.

8. The report lodged by applicant No.4 Sagar in CR No.455 of 2022 in respect of the alleged occurrence dated 29th October, 2022 indicates that the applicant party was allegedly assaulted when they had been to the house of the first informant to fetch her. In respect of the said incident the first informant has narrated a counter version.

9. In the aforesaid view of the matter, at this stage, the custodial interrogation of the applicants does not seem to be warranted. The delay *prima facie* renders the claim for pre-arrest bail justifiable. I am, therefore, inclined to exercise the discretion in favour of the applicants.

10. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.750 of 2023, registered with Narpoli Police Station, Thane City, the applicants be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, each.
- (ii) The applicants shall cooperate with the investigation and attend concerned Police Station on 1st 2nd and 3rd November, 2023 in between 10.00 am. to 1.00 pm. and thereafter as and when directed.
- (iii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- (iv) The applicants shall regularly attend the proceedings before the jurisdictional Court.
- (v) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

N. J. JAMADAR, J.]