

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.250 OF 2023

Sayyad Niyaj Sayyad Hamid Vs. State of Maharashtra and another
WITH

CRIMINAL APPLICATION (ABA) NO.251 OF 2023

Sayyad Rijwan Sayyad Niyaj Vs. State of Maharashtra and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Shri L. Mirza, Advocate for applicants.
Shri S.M. Ghodeswar, APP for non-applicant no.1/State.
Shri Vivek Awchat, Advocate for non-applicant no.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : JULY 27, 2023.

Both the applications are for grant of anticipatory bail in the event of their arrest in connection with Crime No.220/2023 registered with Police Station, Yavatmal City, District Yavatmal for the offences punishable under Sections 307, 498A read with Section 34 of the Indian Penal Code, 1860.

2. The applicant in Criminal Application (ABA) No.250/2023 namely Sayyad Niyaj Sayyad Hamid is the father-in-law of the informant – Nahid Anjum Sayyad Rijwan and applicant in Criminal Application (ABA) No.250/2023 namely Sayyad Rijwan Sayyad Niyaj is the husband of the informant.

3. Both the applicants are apprehending arrest at the hands of the police as crime is registered against them on the basis of report lodged by the informant on an allegation that her marriage is performed with Sayyad Rijwan Sayyad

Niyaj. After marriage, she resumed cohabitation at the house of the present applicants however she was not treated well and both applicants alongwith the other co-accused attempted to kill her by administering the medicine, which validity is expired. On 06.09.2019, again she was assaulted by demanding ₹2,00,000/- and all the ornaments were from her person. Therefore, she filed complaint under the provisions of Domestic Violence Act. However, as her father died therefore she constrained to join the company of the present applicants. They have attempted to kill her by pouring kerosene on her and setting her on fire by threatening her that she has to withdraw the criminal complaints filed against them. Thereafter, on 27.01.2020, applicant, who is her husband, made commitment before the Court that he will treat well and took her for cohabitation. However, on 28.08.2021, both the applicants attempted to kill her by hanging her. On the basis of said report, the police have registered the crime against the present applicants and other co-accused.

4. As per the contentions of the applicants that this false and baseless allegations are leveled against them only because the informant is not willing to cohabit with the applicant – Rijwan. The applicant, who is father-in-law, is assaulted by the family members of the informant and therefore he had lodged complaint against the informant and her other family members. To give a counterblast to the said complaint, this false complaint is filed. The physical custody of the applicants is not required and hence they be

protected by granting anticipatory bail.

5. Said application is strongly opposed by the State on the ground that the allegations of the informant the applicants attempted to hang her is supported by the medical certificate. The ligature marks are found around her neck. *Prima facie* case is made out against the present applicants. Their custodial interrogation is required and hence the application for anticipatory bail deserves to be rejected.

6. Heard learned counsel for the applicants. He reiterated the contentions and submitted that with baseless and false allegations the applicants are implicated. Infact, applicant in ABA No.250/2023, who is father-in-law of the informant namely; Sayyad Niyaj Sayyad Hamid, who is 70 years of age, was assaulted by the informant and her family members, regarding the same crime is already registered and to give counterblast to the said crime, this false and baseless are leveled against the present applicants. The custodial interrogation of the present applicants is not required and hence they be protected by granting anticipatory bail.

7. Learned APP strongly opposed the application with the contention that considering that the allegation of the informant is supported by the medical certificate. Ligature marks are found on the neck of the informant. Serious allegations are leveled against the present applicants. Their custodial interrogation is required and hence application

deserves to be rejected.

8. Having heard both the sides and on perusal of the FIR and the investigation papers, admittedly, there are allegations regarding ill-treatment at the hands of the applicants. The informant has narrated several incidents. As far as the incident prior to 28.08.2021, there is no material to show the present informant was either assaulted or the applicants have attempted to kill her. As far as the incident dated 28.08.2021 is concerned, the allegation is supported by the medical certificate, which shows that the ligature mark is found on the neck of injured when she was examined on 29.08.2021. As far as the allegation against the applicant in ABA No.250/2023 is concerned, the general allegations are made, however, against the applicant (husband) in ABA No.251/2023, there are specific allegations. Though learned counsel for the applicants submitted that the custodial interrogation of the present applicants is not required, however, custodial interrogation is one of the consideration but the investigation is to be carried out regarding the ill-treatment at the hands of the present applicants. Serious allegations are levelled against the applicant-Rijwan, who is the husband of the informant. Considering the general allegations against the applicant – Sayyad Niyaj Sayyad Hamid, he can be protected by granting anticipatory bail. However, as far as the application of the husband Sayyad Rijwan Sayyad Niyaj is concerned, it deserves to be rejected. Accordingly, I proceed to pass the following order:

ORDER

- i. Criminal Application No.250/2023 is allowed.
- ii. Criminal Application No.251/2023 is rejected.
- iii. In the event of arrest in Crime No.220/2023 registered with Police Station, Yavatmal City, District Yavatmal for the offences punishable under Sections 307, 498A read with Section 34 of the Indian Penal Code, 1860, applicant – Sayyad Niyaj Sayyad Hamid, be released on anticipatory bail on furnishing P.R. Bond in the sum of ₹25,000/- with one surety of like amount.
- iv. The applicant – Sayyad Niyaj Sayyad Hamid shall attend concerned Police Station as and when required for the investigation purpose and shall cooperate in the investigation, till filing of the charge-sheet.
- v. The applicant – Sayyad Niyaj Sayyad Hamid shall furnish his cell phone number and address with address proof.
- vi. The applicant – Sayyad Niyaj Sayyad Hamid shall not tamper prosecution evidence or shall not induce, threaten or pressurize any witness, who are connected with the crime.

With this, the applications are disposed of.

JUDGE

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