

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 483/2023

Kaustav Madhusudan Chatterjee and another V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. Amol Mardikar, counsel for the applicants.

Mr. A.M.Kadukar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 25/07/2023.

1. Heard.
2. The present application is for seeking transit bail in the event of their arrest in connection with crime No. 390/2023 registered with Jeedimetla Police Station, District Cyberabad for the offence punishable under Section 498-A of the Indian Penal Code.
3. The applicants are the sister and husband of applicant No.2 of other co-accused Gaurav Shakti Rattan. They are apprehending arrest at the hands of the Police as the wife of Gaurav namely Shiksha has lodged the report at Cyberabad Police Station, alleging that she was subjected for ill-treatment and harassment at the hands of her in-laws as well as the present applicants. On the basis of said report, the Police have registered the crime against the present applicants.

4. As per the contention of the present applicants, they are married long back, and now they are residing at a matrimonial house. Merely because they were the nearest relatives of the co-accused Gaurav were implemented in the alleged offence. They are apprehending the arrest at the hands of the Police at any time. They have to approach the concerned Court but it will require time. In the meantime, they be protected by granting ad-interim protection by way of transit bail.

5. The said application is strongly opposed by the State on the ground that the informant was allegedly ill-treated by the present applicants as well as other co-accused, and she was constrained to leave the matrimonial house and custodial interrogation of the present applicants is required and hence, the criminal application for ad-interim protection deserves to be rejected.

6. Mr Amol Mardikar, learned counsel for the applicants. He reiterated the contention and submits that the co-accused husband is already protected by this Court by granting transit bail. The immediate custody of the present applicants is not at all required. In view of that, they be protected by granting transit bail.

7. Heard both the sides. Perused the copy of the FIR. The only allegations against the present applicants is that, they are the sisters and they have also involved in ill-treating the victim. As far as their custodial interrogation is concerned, which is not required. Now, the Hon'ble Apex Court in the case of ***Satinder Kumar Antil V/s Central Bureau of Investigation reported in (2022) 12 SCC 51***, wherein it is held even for a cognizable offence an arrest is not mandatory as can be seen from the mandate of Section 41 Code of Criminal Procedure. It is further held by the Hon'ble Apex Court that Section 41 of the Code of Criminal Procedure mandates the Police Officer to record his reasons in writing, while making the arrest. Thus, considering the fact that immediate arrest of the present applicants is not required as nothing is to be required from him. They can be protected by granting transit bail till they approached to the concerned Court.

In view of the above, I proceed to pass following order.

- a) Criminal Application is allowed.
- b) In the event of their arrest, in respect of Crime No. 390/2023 registered with Police Station, Jeedimetla, District Cyberabad for the offence punishable under Section 498-A of the Indian

Penal Code, the applicant Nos. (1) Kaustav Madhusudan Chatterjee and (2) Kavita Rattan are released on transit bail on executing P.R. Bond of Rs. 25,000/- each with one solvent surety of like amount for four weeks.

- c) The applicant shall approach to the concerned Court and seek appropriate remedy.

The criminal application is **disposed of**.

JUDGE