

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

ANTICIPATORY BAIL APPLICATION NO. 2114 OF 2024

1. Shrutika Amol Gat @ Shrutika Shreedhar Dhage
 2. Shraddha Shreedhar Dhage
 3. Shreedhar Tukaram Dhage
 4. Adwait Shreedhar Dhage
- ...Applicants

Versus

The State of Maharashtra

...Respondent

- Mr. Laxman Shivajirao Deshmukh, for Applicants.
- Mr. Mayur S. Sonavane, APP for Respondent.
- Mr. Ankur Shelar, PSI, Panvel City Police Station

CORAM : MANISH PITALE, J.

DATE : 19th August, 2024.

P. C. :

1. Heard learned counsel for the applicants and the learned APP for the State.
2. The applicants are apprehending arrest in connection with First Information Report No. 0025 of 2024, dated 18.01.2024 registered at Police Station Panvel City, Navi Mumbai, for offences under Sections 307, 323, 504 and 506 read with 34 of the Indian Penal Code (IPC).
3. The informant in the present case is the husband of applicant No.1. Applicant Nos.2 and 3 are the mother-in-law and father-in-law of the informant and applicant No.4 is his brother-in-law. The date of the incident is 17.12.2023, while the FIR was registered after one month on 18.01.2024.

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4. As per the informant, in the backdrop of matrimonial dispute between the informant and the applicant No.1, when the applicants reached the house of the informant for collecting certain belongings of applicant No.1, the incident occurred wherein the informant was physically assaulted and he was also abused. He suffered injury due to which he had taken treatment in the hospital. This led to registration of the aforesaid offences.

5. The learned counsel for the applicants submits that in the backdrop of the matrimonial dispute between the applicant No.1 and the informant, on 28.08.2023, a FIR is already registered against the informant, his mother and his sister for offences under Sections 323, 498-A, 504 and 506 read with Section 34 of the IPC. It is submitted that in the backdrop of the said earlier proceeding, the alleged incident of 17.12.2023 has occurred. It is submitted that there is considerable delay in registration of the FIR and since there is not even an allegation of use of any weapon, as long as the applicants are ready to co-operate with the investigation, there is no need for taking physical custody of the applicants. It is submitted that in any case, the allegation regarding physical assault on the informant is only against applicant No.4, who is brother of applicant No.1.

6. The learned APP submits that the injury certificate clearly shows a grievous injury suffered by the informant in his neck region, which correlates

with the nature of allegations made in the statement, leading to registration of the FIR. It is submitted that the informant was required to take treatment for a couple of days and thereafter, he could approach the police for registration of the FIR. It is submitted that the incident was video recorded by a friend of the informant and this video was actually perused by the Sessions Court while dismissing the application for anticipatory bail filed by the applicants. On this basis, it is submitted that this Court may dismiss the application.

7. The material on record shows that the matrimonial relations between the applicant No.1 and her husband i.e. the informant are bitter. In fact, as pointed out by the learned counsel appearing for the applicants, prior FIR dated 28.08.2023 was registered at the behest of applicant No.1 against the informant, his mother and his sister. Such background of matrimonial dispute has to be kept in mind while appreciating the allegations made against the applicants in the subject FIR. As the Sessions Court has perused the video, it cannot be denied that an incident did occur on 17.12.2023 involving the applicants. It is to be noted that even if as per the injury certificate, the informant suffered grievous injury around his throat and he was advised sonography of neck, there is no explanation as to why the FIR was registered after more than a month on 18.01.2024. Even if the informant had undertaken treatment, it is not believable that the nature of injury recorded in the injury certificate required treatment for more than a month. It is also

relevant to note that with regard to the very same incident dated 17.12.2023, on the very same day, the applicant No.1 had caused a report for non cognizable offence to be registered at the police station. In the said report, the informant was shown as the accused / suspect. The allegation against the applicant No.4 is of physical assault, but there is no reference to any weapon having been used and hence, there is no question of any recovery in the present case.

8. As against applicant Nos.1 to 3, at worst, their presence can be said to have been established on the basis of the material on record. This in itself cannot be a basis for rejecting the present application.

9. Considering the backdrop of the incident, coupled with the delay of more than one month in registration of the FIR, as also fact that admittedly no weapon was used in the present case and it can be said that the incident may have occurred at the spur of the moment when the applicants reached the house of the informant to collect belongings of the applicant No.1 in the backdrop of the matrimonial dispute, this Court is of the opinion that the applicants have made out a case in their favour. They have undertaken to co-operate with the investigation.

10. In view of the above, the application is allowed in the following terms :

- (A) In the event the applicants are arrested in connection with FIR No.0025 of 2024, dated 18.01.2024 registered at Police Station Panvel City, Navi Mumbai, for offences under Sections 307, 323, 504 and 506 read with 34 of the Indian Penal Code (IPC), they shall be released on bail on furnishing P.R. Bond of ₹ 25,000/- each and one or two sureties in the like amount to the satisfaction of the Trial Court.
- (B) The applicants shall remain present before the Investigating Officer on 21st August, 2024 between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer. They shall cooperate with the investigation.
- (C) The applicants shall not tamper with the evidence in any manner. They shall not influence the informant, witnesses or any other persons concerned with the case.

11. Needless to say, violation of any of the aforesaid conditions may lead to cancellation of the present order.

12. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the Trial

Court shall proceed further in the matter without being influenced by the observations made hereinabove.

13. The application is disposed of.

(MANISH PITALE, J.)