



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3622 OF 2023**

1) Shriniwas Vinayak Rathod
2) Savita Vinayak Rathod
3) Pratiksha Vinayak Rathod
4) Anil Shankar Pawar ... Applicants
versus
State of Maharashtra & Anr ... Respondents

Mr. Shrikant R. Gadade, for Applicants.

Mr. P.P.Devkar, APP for State.

Mr. Ritesh Thobde with Ms. Zubi Ansari, Ms. Ankita Rai, for Respondent No.2.

CORAM: N.J.JAMADAR, J.

DATE : 20 FEBRUARY 2025

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.644 of 2023 registered with Vijapur Naka Police Station, Solapur City, for the offences punishable under Sections 376(2)(n), 377, 354-A, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.
3. The marriage of Applicant No.1 was solemnized with the Respondent No.2 – first informant, on 23 June 2023. The applicant No.2 is the mother of Applicant No.1. The applicant No.3 is the sister of Applicant No.1. Applicant No.4 is the husband of the another sister of the applicant No.1.
4. First informant lodged a report with the allegations that the Applicant No.1 and his relatives subjected her to cruelty in order to coerce her to meet

the unlawful demand of property and on the ground of the alleged inefficiency in the household work. An allegation of sexual exploitation by the applicant No.1 few weeks prior to the marriage when the first informant, Applicant No.1 and Applicant No.3 had gone to Barshiv, Tal. Murud, Dist. Alibag, for a pre-wedding photo shoot, was made. Allegation of outraging the modesty of the first informant was also made against the Applicant No.4, the brother in law of the applicant No.1.

5. On 22 December 2023, this Court was persuaded to grant interim bail observing, inter alia, as under :

“6. Learned Counsel for the Applicants submitted that before lodging FIR, the first informant had given a complaint on 30 August 2023. In the said complaint, the allegations of sexual exploitation qua applicant No.1 and outraging the modesty of the first informant qua applicant No.4 were not made.

7. The learned APP seeks time to take instructions as the Investigating Officer is not present.

8. I have perused the allegations in the FIR and the complaint lodged by the first informant on 30 August 2023. In the said complaint, the first informant has made various allegations. However, the allegations of sexual exploitation prior to the marriage have not been made. A NC complaint was also lodged by the first informant on 16 September 2023, sans such allegations. In the circumstances, it prima facie appears that the genesis of the offences is in marital discord resulting in the refusal of the applicants to allow the first informant to resume cohabitation with applicant No.1.

9. In the circumstances, it may be expedient to provide an opportunity of hearing to Respondent No.2 and then decide the

application and, in the meanwhile, I am impelled to grant interim protection to the applicants.”

6. As the genesis of the alleged offences is in the marital discord, with the consent of the parties, they were referred to mediation. However, a failure report came to be submitted.

7. I have heard Mr. Gadade, learned Counsel for the Applicants, Mr. Devkar, learned APP for State, and Mr. Ritesh Thobde, learned Counsel for Respondent No.2, at some length.

8. Mr. Gadade, learned Counsel for the Applicants submitted that to rope in all the members of the applicant No.1's family, false and fabricated allegations have been made. Allegations of sexual exploitation prior to the marriage have been made to implicate the applicants in grave offences. However, contemporaneous record would indicate that in the written complaint filed on 28 August 2023, those allegations were not made. The absence of the said allegations in the written report bears upon the veracity of the claim of the first informant, urged Mr. Gadade.

9. Mr. Devkar, learned APP, resisted the prayer for pre-arrest bail. It was submitted that there are specific allegations against the Applicant Nos.1 and 4. In the backdrop of grave nature of allegations, applicant Nos.1 and 4 cannot be enlarged on pre-arrest bail. Learned APP further submitted that the applicants have given threat of dire consequences to the first informant and

his family members, and, therefore, they do not deserve the relief of pre-arrest bail.

10. Mr. Thobde, learned Counsel for Respondent No.2, would urge that, even before the lodging of the first information report, the first informant had made allegations of sexual exploitation at the hands of Applicant No.1, before the marriage, in her statement recorded on 23 October 2023. Thus, the allegations cannot be brushed aside as an after-thought. Mr. Thobde also laid emphasis on the conduct of the applicants before and after the lodging of the FIR. Multiple complaints have been lodged for the threats given by the applicants, especially Applicant No.1, not only to the first informant but also to her parents and well-wishers. Release of the applicants on pre-arrest bail will further embolden the applicants to commit grave offences, urged Mr. Thobde.

11. Evidently, the genesis of the offences is in the matrimonial discord. If the tenor of the FIR is considered, it becomes evident that, within months of the marriage, the applicants and the first informant turned astray. In the first informant Report itself, there is a reference to a report lodged by the first informant at Pune against the Applicant Nos.2 and 3 at Bharti Vidyapeeth Police Station, Pune, for the offences punishable under Sections 323, 504, 506, 427 read with Section 34 of the IPC. Thereafter, it seems, the first informant again joined her matrimonial home. Yet, the marital discord did not

subside and the first informant was dropped at her parental home. Despite repeated requests, the applicant No.1 did not take the first informant back to the matrimonial home and, thereupon, on 28 August 2023, the first informant lodged a written report.

12. It is in this context, the allegations of sexual exploitation by applicant No.1, few weeks prior to the marriage, deserve to be appreciated, albeit prima facie. In the said complaint dated 28 August 2023, there is no reference to the said incident prior to the marriage. The said report dated 28 August 2023 is quite elaborate. Other alleged acts of cruelty and illtreatment are referred to with sufficient details in the said report in writing. It is also imperative to note that when the first informant lodged a report against Applicant Nos.2 and 3 at Bharti Vidyapeeth Police Station in the month of August 2023 also, it does not seem that the said allegation of sexual exploitation prior to the marriage was made against the applicant No.1.

13. It is true, there is material to show that in the statement, purportedly recorded on 23 October 2023, the first informant had made those allegations. However, it is also necessary to note that, in the intervening period, the relations between the parties further deteriorated. A report was lodged at Vijapur Naka Police Station for the offences punishable under Sections 341, 323, 504, 506 read with Section 34 of the IPC, on 6 October 2023. In the said report, the allegations were made against Applicant No.1 and his cousin

Akshy Rathod. Even in the said report, there was no reference to the allegations of sexual exploitation few weeks prior to the marriage.

14. It appears that after lodging of the report, the parties fell apart. Number of NCs have been lodged. Prima facie, it appears that the relations turned bad to worse. In the meanwhile, there were efforts to resolve the marital discord and even the first informant had rejoined the matrimony with the Applicant No.1.

15. In view of the above, I am impelled to hold that the veracity of the allegations would be required to be appreciated in the light of the marital discord and the resultant fall out. Thus, the custodial interrogation of the applicants does not seem warranted to facilitate further investigation. The apprehension on the part of the prosecution and Respondent No.2 can be taken care of by imposing appropriate conditions.

16. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The order dated 22th December 2023 granting interim bail to the Applicants is made absolute on the terms and conditions incorporated therein.
- (iii) The applicants shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade

him from disclosing the facts to Court or any police officer.

(iv) In addition, the applicants shall not contact the first informant or her parents in any manner.

(v) The applicants shall regularly attend the proceedings before the jurisdictional Court.

(vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for pre-arrest bail only.

Application disposed.

(N.J.JAMADAR, J.)