

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1378 OF 2022

Ashwin Babubhai Prajapati & Anr. .. Applicants

Versus

The State of Maharashtra .. Respondent

...

Mr.Mihir Gheewala with Mr.Aditya Mehta for the Applicants.

Mr.S.H.Yadav, A.P.P. for the State/Respondent.

Mr.Bharat Darade, API attached to Dindoshi Police Station,
present.

...

CORAM: BHARATI DANGRE, J.

DATED : 23rd JUNE, 2022

P.C:-

1. The applicants before me are the husband and father-in-law of the complainant, who set the investigating machinery into motion by lodging a report on 21/04/2022 with Dindoshi Police Station. The complaint resulted in invoking Sections 498A, 377, 406, 324, 354, 504, 506 read with Section 34 of the IPC against her entire matrimonial family, including her husband, father-in-law, mother-in-law and three sisters-in-law.

It is informed by the learned counsel for the applicant that barring the applicants, the other family members, who were arraigned as accused, have been released on bail in anticipation of their arrest.

2. When the longish F.I.R. invoking the relevant sections of the IPC is perused, it can be seen that the marriage of the complainant was solemnized with applicant No.1 somewhere in the year 2017 and the complainant narrates that at the time of marriage, her father had expended a sum of Rs.10,00,000/-, which included a cash sum of Rs.5,00,000/-. The complaint also refers to various gold ornaments, being gifted to her husband and his family.

Narrating the unpleasant behaviour of the family members, the complaint proceed to cite certain instances to reflect the strained relationship. Since, she was unable to adjust with the family, the complainant herself has stated that in the year 2018, she alongwith her husband started residing separately in Kharghar.

3. As far as the accusations faced by applicant No.1 under Section 377 are concerned, without giving any details, vaguely it is stated that she was pressurised to bring a sum of rupees four crore from her parental house and when she refused to do

so, one night, applicant No.1 had unnatural sex with her, but she did not report this incident to any one. She delivered a child on 30/09/2019 and it is stated that the entire expenditure was borne by her father. As regards applicant No.2 is concerned, without giving any specification, it is stated that on day when her father-in-law returned home, he assaulted her. In an incident dated 11/12/2018, it is stated that when she was all alone at home and revealed to her father-in-law about the extra marital affair carried by her husband, he outraged her modesty by uttering some unpleasant words. Thereafter, the normal wear and tear of their marital life is narrated by the complainant till April 2022, when she lodged the report.

4. The complainant was noticed repeatedly and even on the last date of hearing, the Investigating Officer was directed to intimate the complainant about the next date of hearing so that she can avail of her right to oppose the application.

The learned A.P.P. has invited my attention to the notice communicated to the complainant, which is received by her on 18/06/2022, giving rise to an inference that she is aware about the application filed by the applicants. However, today she has chosen to remain absent and remained unrepresented.

M.M.Salgaonkar

5. On perusal of the complaint it can be seen that the relationship which the complainant shared with the husband and his family members spread over for a period of five years, is all compiled in the complaint. The allegations when perused, are general and vague in nature, without any specification. The husband is alleged to have committed unnatural sex with her, but she states that she has not reported the incident earlier, to any one. As far as applicant No.2, father-in-law, is concerned, the alleged incident dated 11/12/2018 was also never reported till 21/04/2022.

The learned counsel for the applicants states that the complainant continued to stay in the house of applicant No.2 i.e. her father-in-law and is separated from her husband, who continued to reside near his workplace.

The nature of accusations faced by the two applicants, being without any specifications, in my considered opinion, *prima facie*, are result of strained relationship of the complainant with her husband and his family members. Further, it is also to be noted that on 14/03/2022, the mother of applicant No.1 has lodged complaint against the complainant with the same police station, resulting in invocation of Sections 323, 324, 337, 504 and 506 of the IPC

against her when it is alleged that she was pushed from the staircase, resulting into injuries to the old lady. It is also argued by the learned counsel for the applicants that the present F.I.R. is counterblast to the F.I.R. filed by the mother of applicant No.2. In the wake of the accusations faced by the applicants, custodial interrogation of the applicants is not warranted, subject to the stipulation that they shall continue to co-operate with the investigation. Hence, the following order.

: ORDER :

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R.No.445 of 2022 registered with Dindoshi Police Station, applicant No.1-Ashwin Babubhai Prajapati and applicant No.2-Babubhai Khemabhai Prajapati shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- each, with one or two sureties of the like amount.
- (c) The applicants shall report to the concerned police station on every Thursday and Friday between 10.00 a.m. to 2.00 p.m. for a period of two weeks and, thereafter, as and when called for.

(d) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(SMT. BHARATI DANGRE, J.)