

Ek Nath Bhaurao Jadhav And Anr vs The State Of Maharashtra on 12 October, 2018

Author: V.K. Jadhav

Bench: V.K. Jadhav

1

ABA 1074.2018.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1074 OF 2018

1. EKNATH BHAURAO JADHAV
2. BABAJI SHANKAR DUMBARE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Gaware Niteen V.
APP for Respondents: Mr. V M Kagne

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CORAM : V.K. JADHAV, J.
Dated: October 12, 2018

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PER COURT :-

1. The applicant is seeking pre-arrest bail in connection with crime No.I-133 of 2018 registered with Ghargaon police station, Tq. Sangamner, District Ahmednagar, for the offences punishable under Sections 376, 34, 498-A, 323, 504, 506 of I.P.C. His application bearing Cri M.A. (Bail) No.156/2018 with similar prayer came to be rejected by the learned Additional Sessions Judge, Sangamner, by order dated 10.9.2018.

2. Learned counsel for the applicant submits that, applicant no.1 Ek Nath Bhaurao Jadhav is a Mediator

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for settlement of the disputes in the village in all matrimonial discord and applicant no.2-Babaji Shankar Dumbare is the husband of married sister-in-law of the informant. The informant has initiated various proceedings against her husband under the provisions of the Protection of Women From Domestic Violence Act, 2005, under section 125 of the Criminal Procedure Code, 498-A of the Indian Penal Code and also filed an application under section 9 of the Hindu Marriage Act. Learned counsel submits that, on 10.8.2017 informant has withdrawn all those proceedings and it is also pertinent to note that in those proceedings, there is absolutely no reference to the incident as narrated and detailed in the present complaint. Applicant no.1 Eknath Bhaurao Jadhav is a Mediator and applicant no.2 Babaji Shankar Dumbare is the husband of married sister-in-law of the informant. Learned counsel submits that, there are reckless and baseless allegations in the complaint that the applicants have committed rape on the informant on some different dates and the co-accused Jivan Jadhav alongwith his mother

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facilitated said commission of crime and also prepared a Video clip of the said rape incident in his mobile. Learned counsel submits that, reference has been given specifically in the complaint about the incident dated 25.6.2017 and further the incident dated 26.6.2017 in respect of the rape allegations, however, complaint came to be lodged after an inordinate delay of one year and two months i.e. on 18.8.2018 without explaining the delay. Learned counsel submits that, informant was suspecting that Jivan Jadhav (her husband) had some illicit sexual relations with one Varsha Kale and also performed Gandharva Marriage with her. It is also alleged in the complaint without any basis that mother of the co-accused Jivan is indulged in prostitution business. Learned counsel submits that, antecedents of the applicants are clear. In the given set of allegations, their custodial interrogation is not at all required. They are ready to cooperate the investigating agency and for that purpose ready to abide any condition, if imposed by this Court.

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3. Learned A.P.P. has strongly resisted the application on the ground that there are severe allegations made against the present applicants. Statement of the informant was recorded under section 164 of the Cr.P.C. by the learned Magistrate. Even, the statement of the informant was also recorded by 'Dilasa Cell' in the office of the Superintendent of Police, wherein, the informant has specifically stated that she withdrew all those proceedings under the fear that her husband may use the said video clip of commission of rape publicly and, as such, delay has been occurred in filing the complaint. Learned APP submits that applicants have committed forcible intercourse with her against her wish and the co-accused Jivan alongwith his mother has facilitated the said commission of crime. Furthermore, co-accused Jivan Jadhav has prepared video recording of the said commission of rape in his mobile.

4. On careful perusal of the investigation papers and after going through the allegations made in the

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complaint, it appears that, there is an inordinate delay of one year and two months in lodging the complaint though the incident of rape alleged to have been taken place on 25.6.2017 and 28.6.2017. It further appears that, informant withdrawn all the pending proceedings filed under the provisions of the Protection of Women from Domestic Violence Act, 2005, under section 125 of Criminal Procedure Code, u/s 498-A of IPC and, section 9 of Hindu Marriage Act, unconditionally, and further there is no whisper at all in those proceedings about the alleged commission of rape with her. Even, there is no reference to the video recording in the said proceedings. Furthermore, applicant no.1 Eknath Bhaurao Jadhav is a Mediator and applicant no.2 Babaji Shankar Dumbare is the husband of married sister-in-law of the informant. After considering the sequence of the incident as alleged in the FIR and, further considering the nature of the allegations and entire aspect of the case, I am inclined to grant pre-arrest bail to applicants. Hence the following order:-

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O R D E R

I. Application is hereby allowed.

II. In the event of arrest of applicant no.1 - Eknath Bhaurao Jadhav and 2 - Babaji Shankar Dumbare in connection with Crime No.I-133 of 2018 registered with Ghargaon police station, Tq. Sangamner, District Ahmednagar, for the offences punishable under Sections 376, 34, 498-A, 323, 504, 506 of I.P.C., they be released on bail on furnishing personal bond of Rs.15,000/-(Rs. Fifteen Thousand) each, with one surety of the like amount by each of them, on the following conditions :-

- a) The applicants shall not tamper with the prosecution evidence in any manner.
- b) The applicants shall attend the concerned police station twice in a week i.e. on every Monday and Saturday between 08.00 am to 11.00 am till filing of the charge sheet.

III. Application is accordingly disposed off.

(V. K. JADHAV, J.)

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