

Vijay Barku Kokani And Others vs The State Of Maharashtra on 7 September, 2018

Author: V.K. Jadhav

Bench: V.K. Jadhav

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ABA 907.2018.odt

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 907 OF 2018

VIJAY BARKU KOKANI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Wani Ruchir S.
APP for Respondents: Mr. B V Virdhe

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CORAM : V.K. JADHAV, J.
Dated: September 07, 2018

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PER COURT :-

1. The applicants are seeking pre-arrest bail in connection with crime No.103 of 2018 registered with Upnagar police station, District Nandurbar for the offences punishable under Sections 498(A), 494, 323, 504, 506, 34 of Indian Penal Code. Their application bearing Cri Bail application No.153/2018 with similar prayer came to be rejected by the learned Additional Sessions Judge, Nandurbar.

2. Learned counsel for the applicants submits that though, last incident as quoted in the complaint dated 26.6.2017 alleged to have been occurred at Kalyan

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Thane, the complaint came to be lodged belatedly after a gap of one year without any explanation. Learned counsel submits that almost all the family members including the married sisters and husband of the said married sisters are also not spared and all of them are implicated in the crime as accused. Learned counsel submits that the informant has not only filed the present complaint at Nandurbar, but she also initiated the proceedings under the Protection of Women From Domestic Violence Act, 2005 at Solapur by showing her residence in Solapur at that time. Learned counsel submits that informant is thus determined to harass the applicant and his family members and gone to the extent of making all sort of allegations. The applicant no.1 is a Government servant and presently posted at Kalyan District Thane, applicant nos. 2 and 3 are the aged persons. Their custodial interrogation is not required. The applicants are ready to abide the conditions, if imposed by this Court.

3. Learned APP has strongly resisted the application

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on the ground that, there are severe allegations made against all the applicants. The informant was subjected

to cruelty on account of non-fulfillment of the demand of the huge amount of rupees five lacs. Furthermore, the applicant no.1, who happened to be the husband is staying with one another woman in his house at Kalyan. Applicant no.1 was harrasing the informant on the ground that he wanted to perform marriage with the said woman.

4. After going through the allegations made in the complaint minutely, it appears that, almost all the family members came to be implicated in the complaint and, even though, last incident as quoted in the complaint is of 26.6.2017, the complaint came to be lodged one year thereafter without explaining the inordinate delay caused in filing the complaint. Moreover, considering the allegations as it is, I do not think that, custodial interrogation of the applicants in this crime is required. Applicant no.1 is government servant residing at different place, applicant nos. 2 and

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3 are the aged persons residing at Dangshirwade Tq. Sakri District Dhule, there is no question of tampering with with the prosecution evidence. Other accused persons are released on anticipatory bail by the Court below. Thus, by imposing certain conditions the

applicants are entitled for pre-arrest bail since the matter pertains to matrimonial dispute. Hence, following order :-

O R D E R

I. Application is hereby allowed.

II. In the event of arrest of applicants 1] Vijay Barku Kokani, 2] Barku Sanpat Deore, 3] Maharibai Barku Deore, in connection with crime No.103 of 2018 registered with Upnagar police station, Nandurbar, District Nandurbar for the offences punishable under Sections 498-(A), 494, 323, 504, 506, 34 of Indian Penal Code, they be released on bail, on their 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 :-

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- a) The applicants shall not tamper with the prosecution evidence in any manner.
- b) The applicants shall attend the concerned police station as and when required by the investigating officer.

III. Application is disposed of.

(V. K. JADHAV, J.) ...

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| Anuja | Digitally signed |
| | by Anuja Abhay |
| Abhay | Ankush |
| | Date: 2018.09.07 |
| Ankush | 17:44:16 +0530 |

aaa/-