

MHYA040008982022



**ANTICIPATORY BAIL ORDER PASSED IN CRIMINAL BAIL
APPLICATION NO.402/2022**

O R D E R B E L O W E X H . 1
(Passed on 05th November 2022)

1] The applicants/accused namely Santosh Arvind Kotgire, Chitra Arvind Kotgire and Manisha Arvind Kotgire, all r/o. Khivsara Park, Row House No.6, Aurangabad and applicant No.3 is resident of Garkheda Parisar, Aurangabad have filed the present application under section 438 of the Code of Criminal Procedure, for grant of anticipatory bail in Crime No.295/2022, for the offence punishable under sections 498-A, 323, 504 and 506 r/w section 34 of the Indian Penal Code registered with Police Station, Vasant Nagar, Tq. Pusad, Distt. Yavatmal.

2] It is alleged by the prosecution that, the victim is residing at Gorkheda Parisar, Gulka Nagari, Aurangabad and lodged report on 3.0/09/2022, alleging that her marriage solemnized with accused No.01 on 06/06/2022. Accused No.02 is the mother and accused No.3 is the sister of accused No.01. It is alleged that immediately one month after marriage, all the accused insisted her to bring Rs.50,00,000/-for the construction of hospital. She convinced to the accused, but in-vain. On 31/07/2022, meeting was held. All the accused responded well and assured that they will not demand money. Thereafter, for eight days behaviour of accused was good.

Then they again started demanding Rs.50,00,000/-. When they realized their demand will not be complied, then started illtreatment. On 14/08/2022, informant informed about the illtreatment to her brother Shashank. On 14/08/2022, in the evening, Shashank and the cousin brother Roshan Rathod visited house of accused. Accused demanded Rs.50,00,000/-. They have threats that if the demand is not complied, then there will be no cohabitation. There was no alternative to the informant except to leave the house of accused.

3] By filing application accused raised grounds that only with an intention to harass the family members false case has been lodged. After lodging the report accused received notice of Mahila Takrar Nivaran Samiti. He was present there in response to said notice. 30 to 40 peoples-companion of the informant reached there and arrogantly talk with the applicant. Applicant No.01 is well educated and working as a Professor of Micro Biology. He is not a practicing doctor, hence, there is no question of demand of money for construction of hospital. Applicant No.02 is senior citizen. Applicant No.03 is married sister. Unnecessarily, she has been implicated in a false case. The investigating officer did not serve notice under section 41 -A (1) of Cr.P.C.. On 31/10/2022, applicant No.01 by sending text message requested to the I.O. to convey the date of appearance. No criminal antecedent is recorded against applicants. There is no possibility of absconding. They will abide all the conditions. They will not tamper with the prosecution with prosecution witnesses. Hence, prayed that pre-arrest bail may kindly be granted.

4] The investigating officer and learned APP filed reply and raised objection that all the accused in furtherance of their common

intention demanded huge amount for construction of hospital. When they realized that demand will not be fulfill, the informant was subjected with cruelty and at last she was driven out of the house. All the accused are residing at Aurangabad, therefore, they will not co-operate to the investigating machinery. Hence, application may kindly be rejected.

5] Heard learned advocate Shri S.G. Jadhao for applicants and learned APP Smt. Davkhare represented to the State.

6] Perused the FIR. Prima-facie, it appears that, marriage of informant and accused No.01 solemnized on 06/06/2022. Till one month, there was no dispute of demand. For the first time on 31/07/2022, informant made complaint regarding demand to the parents. As per FIR meeting was held on 31/07/2022. In that meeting accused convinced. Thereafter, for eight days again behaviour of accused was good and the FIR has been lodged on 30/09/2022. It is alleged that accused insisted to bring Rs.50,00,000/- for construction of hospital. Applicant No.01 has produced certificate issued by Datta Meghe Institute of Medical Sciences. Prima-facie it appears that, in the month of March-2011, applicant No.01 obtained degree of Doctor of Medicine in Micro Biology. From 16/06/2015, till 20/08/2022, applicant No.01 has worked as Professor in the Department of Micro Biology at JIIU's Indian Institute of Medical Science and Research, situated at Aurangabad-Jalna road, Taq. Badnapur. Applicant has produced the experience certificate, issued by Dean of concerned college. Thus, it is clear that applicant No.01 is not a practicing doctor. It is not the allegation of informant that while fixation of the marriage, there was dowry demand by accused. There is no criminal

complaint or medical proof to show that informant received physical injury due to the act of accused. In order to attract section 498-A, there shall be a cruelty on account of demand of money or valuable articles. In this case, within a span of two months, informant rushed to the police station harping that accused made demand of Rs.50,00,000/-. Prima-facie after considering the age of applicant No.01 which is 45 years and the age of informant which is 35 years, it appears that, the allegation is baseless.

7] In this case, applicant No.02 is a senior citizen and a woman. Applicant No.03 is a married sister-in-law of informant and residing separately from accused Nos.01 and 02. Applicant No.01 is the well educated person. No criminal antecedent is recorded against him. They are ready to abide all the conditions imposed upon them. Applicants were present before Mahila Takrar Nivaran Kendra. They are co-operating to the Investigating Machinery. They are ready to give undertaking that they will not flee from justice. Thus, in view of ratio laid down in case of **Arnesh Kumar Vs. State of Bihar, AIR 2014 SC**, there is no just and sufficient reason to arrest them and the arrest will not be justified. Considering the punishment prescribed to the alleged offence, I am of the view that applicants are entitled to get benefit of section 438 of Cr.P.C.. Hence, I proceed to pass the following order.

Order

- 1) The application for anticipatory bail is allowed.
- 2) Applicant namely Santosh Arvind Kotgire, Chitra Arvind Kotgire and Manisha Arvind Kotgire, all r/o. Khivsara Park, Row House No.6, Aurangabad and applicant No.3 is resident of Garkheda Parisar, Aurangabad be released on

PR and SB of Rs.15,000/- each with one or two solvent surety in the like amount in the event of their arrest at the hands of non-applicant police in Crime No.295/2022 for the offence punishable under sections under sections 498-A, 353, 323 and 506 r/w section 34 of the Indian Penal Code registered with Police Station, Vasant Nagar, Tq. Pusad, Distt. Yavatmal on the following conditions:

- a) The applicants shall not tamper with the prosecution witnesses in any manner and should not do any inducement, threat, promise etc to any person who is acquainted with the facts of the case.
- b) The applicants shall co-operate to the investigating agency.
- c) The applicant shall produce proof of residence.
- d) Inform the concerned I.O accordingly.

[Smt.N.H.Makhare]
Additional Sessions Judge,
Pusad.

Date : 05/11/2022.