

MHKO010047902019



In the Sessions Court, Kolhapur, at Kolhapur.

(Presided over by P.S. Vithalani, Special Judge & Addl. Sessions Judge)

**The State of Maharashtra. Prosecution.
Vs.
Vijay Shivaji Patil and 4 others. Accused.**

Order below Application Exh. 4.

1. This is an application filed by accused No.2- Shivaji Dagadu Patil, accused No.3 – Parvati Shivaji Patil, accused No.4 – Shahaji Ganpati More and accused No.5 Sanjay Vasant Patil under Section 439 of the Code of Criminal Procedure seeking regular bail.

2. The case of the prosecution, in brief, is as under :

I) The first informant is the wife of the non-applicant / accused No. 1, and accused Nos. 2 to 5 are relatives of the non-applicant / accused No. 1.

II) Previously, the first informant had married with one Mahesh Pandurang Kamble in the year 2004 and had also delivered a child from him. Later on, dispute arose between them and hence, divorce took place.

III) Thereafter, the first informant, who belongs to Scheduled Caste started serving at M.I.D.C. Kagal. That time, she got acquainted with the non-applicant / accused No.1. Intimacy between them was developed and it was converted into lover affair. Thereafter, the first informant and non-applicant / accused No. 1 got married on 04-08-2018 as per Hindu rites and rituals.

IV) After the marriage, the non-applicant / accused No. 1 and the first informant started residing in a rented room at Rendal. On the next day of marriage, the non-applicant / accused No. 1 informed about the marriage to his family members i.e. accused Nos. 2 to 5. They told the non-applicant that he should not come to the house with the first informant because they (accused) belong to Maratha community; whereas the first informant belongs to Scheduled Caste.

V) Thereafter, for few days, the non-applicant / accused No. 1 resided properly with the first informant. Thereafter, he started avoiding her and by leaving the first informant, he went to reside at his village Chandre. After few days, since the accused No. 1 did not return to home at Rendal, the first informant went to reside at her parental house at Yalgud, Tal. Hatkanangale, Dist. Kolhapur. After few days, the non-applicant / accused No. 1 by coming at the parental house of the first informant told her to bring Rs.10 lac, so that they could reside in separate house. By saying that financial condition of the parents was poor, the first informant showed inability to bring Rs.10 lac.

VI) On 16-01-2019, at 5.00 p.m., the first informant and

members of her family from parental side had been to the house of accused at village Chandre in connection with notice issued by the non-applicant/ accused No.1 for restitution of conjugal rights. There, all accused abused the first informant on her caste and told that they would not keep her with them. Accused also did pommeling with the first informant and her family members of her parental side and drove them out of the house. On 03-07-2019, She approached Radhanagari police station, Dist. Kolhapur and lodged report against five accused. Accordingly, C.R.No.124/2019 came to be registered against accused for the offences punishable under Sections 498-A, 323, 504 and 506 r.w. Section 34 of the Indian Penal Code as well as Sections 3(1)(r)(s) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. In all five accused are prosecuted. The accused No.1 Vijay Shivaji Patil was arrested during the investigation and after his remand in judicial custody, he is released on bail. Accused Nos.2 to 5 were not arrested by the I.O. during the investigation. However, they were produced before this Court along with the charge-sheet. After they were remanded in judicial custody, they filed the instant application seeking regular bail.

4. Pending the present bail application, as per the order dated 30/11/2019 passed below application Exh.5, accused Nos.2 to 5 have been released on interim bail.

5. According to the accused, they are innocent persons and are falsely involved in this case. They have shown readiness to abide

conditions of bail and accordingly, they prayed that bail be granted.

6. The application is resisted firstly by the I.O. by filing report/reply at Exh.24. Secondly, learned A.P.P. Smt. M.B.Patil has also opposed the application by giving say on the application overleaf. Similarly, the first informant who was issued notice, appeared and filed her say-cum-affidavit at Exh.23, wherein she has also made resistance to the bail application mainly on the ground that if bail is granted, then there is danger to her life from the accused.

7. I have heard learned Adv. Shri R.B.Patil for accused, learned A.P.P. Smt. M.B.Patil for the prosecution and the first informant in-person.

8. It appears that there are certain allegations of giving abuses and of harassment against the accused. Those allegations can be gone into at the time of trial. At this stage, it is only to be seen whether pre-trial detention of accused is necessary.

9. There appears six months delay in lodgment of complaint. True it is that, at the time of considering bail application, aspect of delay would not be of much importance. However, *prima facie* it appears that after long gap, the FIR is lodged.

10. Since, charge-sheet is already submitted, it can be safely said that investigation is over. All accused are residents of Kolhapur District itself and therefore, their presence at the time of trial can be easily secured. Trial of the case would take its own time. Pre-trial detention of accused does not appear to be necessary. Apprehension of the first informant and prosecution regarding tampering the

evidence by the accused can be taken care of by imposing suitable conditions. In my view, looking to the over-all facts of the case, interim order of bail can be made final and bail can be granted by obtaining fresh sureties or by continuing earlier sureties, if sureties so wish. Hence, the following order.

ORDER

1. Application for bail is allowed.
2. Accused No.2- Shivaji Dagadu Patil, accused No.3 – Parvati Shivaji Patil, accused No.4 – Shahaji Ganpati More and accused No.5 Sanjay Vasant Patil be released on bail on their executing Personal Recognizance bond of Rs.15,000/- each with surety in the like amount subject to following conditions.
 - a. That, accused shall not tamper the prosecution evidence in any manner.
 - b. That, accused shall not make any inducement, threat or promise to the first informant or any of the prosecution witnesses.
 - c. That, accused shall not commit any illegal activity while on bail.
 - d. That, accused shall submit their address proof and contact numbers.
3. Inform concerned police station accordingly.

Kolhapur.

Date : 04/12/2019

(P.S. Vithalani)

Spl.Judge & Addl. Sessions Judge,
Kolhapur.