

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2303 OF 2014

1 Sachin Suresh Valvi
2 Suresh Vanshya Valvi. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

Mr. Prakash Naik a/w. Mr. Ganesh Bhujbal, advocate for Applicants.

Ms. Vira Shinde, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : DECEMBER 20, 2014

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicants herein are arrested on 10th July,
2014 in Crime No. 90 of 2014 registered at Talasari Police Station for
offenc punishable under Section 498A, 306 read with Section 34 of
the Indian Penal Code. The investigation is completed and charge-
sheet is filed on 3/9/2014.

3 It is the case of the prosecution that on 21/6/2014 the complainant Sudam Rama Varatha lodged a report at the police station that his sister Kajal was married to the present applicant No. 1 on 18th February, 2012. The couple was blessed with one son. It is alleged that Kajal was being harassed and ill-treated in her matrimonial house since she was not efficiently performing domestic chores. She had complained to her parents about the same. Whenever she was harassed, she used to come and reside in her maternal house. Thereafter, the applicant No. 1 herein used to fetch her back to the matrimonial house. The same affair continued even after she had delivered a son. She was being told by the present applicant No. 1 that she would have to obey her in-laws and that she shall not visit the house of her parents often. In the second week of June, 2014 Kajal had gone to her maternal house alongwith her son. The applicant No. 1 had gone to the maternal house of Kajal and he had taken away the child with him. After about 4 to 5 hours Kajal had also followed the applicant No. 1. On 20/6/2014 at about 4 p.m. the father-in-law of Kajal i.e. father of the present applicant No. 1 had

informed that Kajal is seriously ill and therefore, they should visit her at Vadavali. When the complainant and his relatives reach Vadavali, they learnt that Kajal had jumped into the well alongwith her one year old son.

4 A.D. No. 25 of 2014 was registered under Section 174 of the Code of Criminal Procedure, 1973. The inquest panchama and the scene of offence panchanama were conducted in A.D. No. 25 of 2014. Autopsy was conducted on the dead body of Kajal as well as infant child. The medical officer had opined the cause of death as cardio respiratory failure because of neurogenic shock due to drowning. The brother of Kajal had then approached the police station on 21/6/2014 and lodged a report against the present applicants and other co-accused. On the basis of which Crime No. 90 of 2014 is registered for offence punishable under Section 498A, 306 read with Section 34 of the Indian Penal Code.

5 It prima facie appears that deceased Kajal was harassed in her matrimonial home. However, it cannot be said that the present

applicants had abetted her or instigated her to commit suicide. The applicants cannot be blamed for the death of the child. One does not know the state of mind of the deceased at the time when she committed suicide. The recitals of the FIR reveal that on one or two occasions when she could not perform her domestic chores properly they had told her to go and die. However, it cannot be said that they had actually intended that she should die. At the most, the applicants would be responsible for offence punishable under Section 498A of the Indian Penal Code. The post-mortem notes also do not reveal that the deceased had sustained any ante-mortem injuries. The papers of investigation do not reveal any prelude to the incident. There is no demand of dowry and therefore, this is not a case of dowry death. Hence, the applicants deserve to be enlarged on bail, *moreso*, since the investigation is completed and charge-sheet is filed

6 The observations made herein above are *prima facie* in nature only for the purpose of considering an application under Section 439 of the Code of Criminal Procedure, 1973 and shall not be relied upon for the purpose of hearing of application for quashing of FIR under

Section 482 of the Code of Criminal Procedure, or discharge application or at the time of trial.

7 Hence, the following order is passed.

ORDER

- (i) The application is allowed.
- (ii) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- each and one or two sureties in the like amount.
- (ii) The applicants shall not tamper with the evidence.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)