

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

Criminal Application No. 1628 Of 2015.

NIRMALABAI BABURAO MALI.
VERSUS
THE STATE Of MAHARASHTRA.

Appearance =>

Mr. S.S. Thombre, Advocate for the Applicant.

Mr. A.V. Deshmukh, Additional Public Prosecutor for the State of Maharashtra.

Mr. Chandrakant L. Sabale, Police Inspector, Police Station, Kallam, Taluka – Kallam, District – Osmanabad (Investigating Officer) is present.

CORAM : V.M. Deshpande, J.

DATE : 20th April, 2015.

Per Court :-

Present Criminal Application is filed by the applicant for grant of anticipatory bail, in connection with CR No. 28/2015 registered with Police Station, Kallam, Taluka–Kallam, District–Osmanabad for the offences punishable under Section.s. 364 read with 34 of the Indian Penal Code.

[2] Heard Mr. S.S. Thombre, learned counsel for the Applicant and Mr. A.V. Deshmukh, learned Additional Public Prosecutor for the State.

[3] Since last 1 ½ years Sau. Usha w/o. Vinod Mali is missing. Present applicant is the mother-in-law of Sau. Usha. According to the Investigating Officer, for the purpose of interrogation, custody of present applicant is necessary.

[4] First Information Report is lodged by Laxman Hanmant Palkar, father of the missing person. According to the First Information Report, the husband of missing person is not having knowledge of the worldly affairs and, therefore, his father (father of Vinod) was intending to transfer all his property, in the name of Sau. Usha. This particular thing was not approved by the present applicant and Ramakant Pralhad Mali (brother of father in law of Sau. Usha). According to the first information report, therefore, the applicant must have taken Usha at some place.

[5] Entire case of the prosecution reveals around the suspicion however, suspicion how strong it may be, it cannot take place of proof.

[6] Till today no incriminating evidence is appearing against the present applicant. In that view of the matter, the applicant has made out a case for anticipatory bail. Hence, I pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) In the event of arrest, Applicant - NIRMALABAI BABURAO MALI shall be released on anticipatory bail on she executing P.R. Bond of Rs. 10,000/- [Rs. Ten Thousand.] with two solvent sureties in the like amount, in connection with CR No. 28/2015 registered with Police Station, Kallam, Taluka – Kallam, District – Osmanabad for the offences punishable under Section.s. 364 read with 34 of the Indian Penal Code.

(ii) The applicant shall attend the Police Station, Kallam, Taluka – Kallam, District – Osmanabad twice in a

week, preferably on every Saturday and Sunday and shall remain in Police Station between 11.00 a.m. to 2.00 p.m. and shall co-operate the Investigating Officer, for a period of three months from today.

(iii) If during the course of investigation, further incriminating material is collected against the present applicant, then the Investigating Officer is at liberty to move an application before this Court for cancellation of anticipatory bail by pointing out the incriminating material against the present Applicant.

(iv) Mr. Chandrakant L. Sabale, Police Inspector, Police Station, Kallam, Taluka – Kallam, District – Osmanabad (Investigating Officer) is personally present before the court, in pursuance of the order dated 17th April, 2015.

Mr. A.V. Deshmukh, learned Additional Public Prosecutor submitted that default on the part of the Investigating Officer is not willful and he was busy in bandobast duty, in view of the Dr. Babasaheb Ambedkar jayanti.

The investigating Officer is directed that, in future, he shall attend the call, from the office of Public Prosecutor, immediately.

(v) With this Criminal Application is allowed and same is disposed of accordingly.

(V.M. DESHPANDE, J.)