

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

CRIMINAL APPLICATION NO. 2166 OF 2015.

**SURUBAI W/O BABASAHEB HARKAL & ORS
VERSUS
THE STATE OF MAHARASHTRA & ANR.**

Appearance =>

Mr. Sudarshan J. Salunke, Advocate for the Applicants.

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

Mr. Sudhir Chavhan, Advocate for the Laxman Sopanrao Thite.

CORAM : V.M. Deshpande, J.

DATE : 7th May, 2015.

Per Court :-

Present Criminal Application is filed by the Applicants for grant of anticipatory bail, since they are apprehending their arrest in connection with CR No.45/2015 registered with Police Station, Pathri, District – Parbhani for the offences punishable under Section.s. 302, 304(B), 498(A), 323, 504, 506 read with 34 of the Indian Penal Code.

[2] Heard Sudarshan J. Salunke, learned counsel for the Applicants, Mr. A.V. Deshmukh, Additional Public Prosecutor for the State and Mr. Sudhir Chavhan, learned counsel for Laxman Sopanrao Thite, who has filed Application to assist the learned Additional Public Prosecutor.

[3] Initially offence was registered with Police Station, Pathri, District – Parbhani for the offences punishable under Section.s. 307, 498(A), 323, 504, 506 read with 34 of the Indian Penal Code against the present Applicants and one Bajirao. Crime was registered on the basis of statement of Sonali recorded by the Asstt.Sub Inspector. Initially offence was registered for the aforesaid crime.

Subsequently, on the death of Sonali on 22nd April, 2015, Investigating Officer has added Section 304(B) and Section 302 of the Indian Penal Code.

[4] Applicant No.1 - Sarubai is the mother-in-law of Sonali, Applicant No.2 – Bhagubai and Applicant No.3 – Shila are the sisters-in-law of Sonali.

Marriage between Sonali and co-accused Bajirao took place in the year 2009. From the said wedlock, he is having two sons namely - Kailas and Siddhant. Father in law of Sonabai died prior to two years.

[5] Statement of Sonabai, which was treated as First Information Report shows that, Applicant No.2 – Bhagubai and Applicant No.3 – Shila are married and they are residing at different villages. Applicant No.2 – Bhagubai resides at village Mauje Wadi and Applicant No.3 – Shila resides at Pathari.

[6] Dying declaration of Sonali shows that Applicant No.1 – Sarubai used to give mental ill-treatment to her on the count that Sonali is not serving food properly. According to her statement, whenever Applicant No.2 – Bhagubai and Applicant No.3 – Shila used to come, they used to say

to Sonali, as to why she is not taking proper care of their mother i.e. Sarubai. Dying declaration of Sonali further reveals that on 01/04/2015 in the morning, Sarubai left her house in order to go to village Wadi. According to the dying declaration, while leaving her house, she asked her son Bajirao, husband of Sonali that he should remove the thorn. If the First Information Report is to be believed in its entirety, on that day at night, husband Bajirao poured kerosene and set her ablaze.

[7] The learned Additional Public Prosecutor also pointed out other dying declaration dated 4th April, 2015 which was not registered as First Information Report, which shows that, Bajirao has poured kerosene however, there is no reference of name of present Applicants.

[8] Entire case of the prosecution is based on two dying declarations. Perusal of the dying declarations clearly shows that none of the Applicants were present at the time of incident. No specific overt act is attributed to any of the present Applicants, that leads me to pass the following order :-

ORDER

(i) Criminal Application is allowed.

(ii) In the event of arrest, Applicant No.1 – Sarubai Babasaheb Harkal, Applicant No.2 – Bhagubai Anurath Shinde and Applicant No.3 – Shila w/o Parmeshwar Sakhare shall be released on anticipatory bail on they executing P.R. Bond of Rs. 5,000/- [Rs. Five Thousand.] each with one solvent surety in the like amount, in connection with CR No.45/2015 registered with Police Station, Pathri, District – Parbhani for the offences

punishable under Section.s. 302, 304(B), 498(A), 323, 504, 506 read with 34 of the Indian Penal Code.

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

(V.M. DESHPANDE, J.)