

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 4374 OF 2014

Shantaram Ratan Patil

....Applicant.

Versus

The State of Maharashtra & Ors. **....Respondents.**

Mr. S.S. Rathi h/f. Mr. G.S. Rane, Advocate for applicant.

Mr. M.M. Nerlikar, APP for State.

Mr. Ujwal S. Patil, Advocate for respondent Nos. 2 to 6.

CORAM : T.V. NALAWADE, J.
DATED : 24th February, 2015.

ORDER :

1. The application is filed under section 439 (2) of Criminal Procedure Code for cancellation of bail granted by the learned Sessions Judge, Dhule in Criminal Bail Application Nos. 609/2014, 622/2014. When the relief was granted, the crime was registered for offences punishable under sections 304-B, 498-A, 323, 504, 34 etc. of I.P.C. and sections 3 and 7 of Dowry Prohibition Act. At present, as per the information given by the Investigating Officer to concerned J.M.F.C. in letter dated 5.2.2015, the offence under section 302 of I.P.C. is also added in view of the statement given by daughter of the deceased. Both the sides are heard.

2. The crime is registered on the basis of report given by one Shantaram Patil, father of deceased Rupali. The deceased was given in marriage to son of respondent Nos. 2 and 3 on 19.3.2008. There are allegations that there were illegal demands of Rs. 1.5 lakh on one occasion and other demands on other occasions. The husband of Rupali had suffering from brain tumor and some amount was given for giving treatment to him also. Allegations are made that more and more demands were made even for purchasing plot and the respondents, relatives of husband were never satisfied and they continued to give illtreatment to Rupali. It is the case of the complainant that all the respondents had even given beating to the deceased in presence of the complainant on occasions. The particulars of different demands made at different times are given in the complaint. The incident in question took place on 5.7.2014. Prior to that on 4.7.2014 there was demand of Rs. 1.25 lakh which was directly made by respondent No. 3 - father of the husband, respondent No. 4 - brother of the husband and respondent No. 5 - husband of sister of the husband of the deceased. Rupali sustained burn injuries and she succumbed to the burn injuries in the hospital.

3. Bail was granted by the learned Additional Sessions

Judge to the respondents as initially crime was registered for the offences punishable under sections 304-B etc. of I.P.C. and sections 3 and 7 of Dowry Prohibition Act. The submissions made show that daughter of the deceased Tanushri, aged about 6 years, gave statement to police and her statement was recorded under section 164 of Cr.P.C. The statement is to the effect that, "my grandmother poured kerosene on the person of my mother, the sister of my father was holding my mother and the husband of sister of my father set fire to my mother."

4. In view of the aforesaid circumstances, it can be said that section 302 of I.P.C. can be used at least as against respondent Nos. 2, 5 and 6. In ordinary circumstances, it was open to police to arrest these respondents after adding of the offence and giving information of the addition to the concerned J.M.F.C. That was also expressed by this Court in order dated 17.2.2015.

5. Today the learned counsel for the respondents made a submission that they want to move Sessions Court for relief like anticipatory bail in respect of the added offence and until then, protection can be given. In view of the nature of allegations now made against respondent Nos. 2, 5 and 6, this

Court holds that it is not possible to give such protection. On the other hand, it needs to be treated that the previous order made in favour of respondent Nos. 2, 5 and 6 is not available in favour of these persons and there is the liberty to the investigating agency to arrest these respondents for offence of murder. For these reasons, this Court holds that the bail needs to be cancelled though practically it was not necessary.

6. In the result, the application is allowed as against respondent Nos. 2, 5 and 6 only. The order of bail made in their favour by the learned Sessions Judge is cancelled. The observations are for the purpose of present proceeding only.

7. The application made as against the remaining respondents is rejected.

8. The learned counsel for respondents requested for giving stay of two weeks to the order. The said request is refused for the reasons mentioned above.

[T.V. NALAWADE, J.]

ssc/