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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.4837 OF 2015

Trambak s/o Shenpadu Shejwalkar
and anr.

..APPLICANTS

VERSUS

The State of Maharashtra

..RESPONDENT

Mr K.M. Nagarkar, Advocate for applicants;
Mr S.M. Ganachari, A.P.P. for respondent;
Mr Mukul S. Kulkarni, Advocate to assist Addl. Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 20th October, 2015

ORAL ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicants seek release on bail, in the event of their arrest, in connection with C.R. No.57 of 2015, registered with Nandurbar Railway Police Station, for offences punishable under sections 306, 498-A, 323 and 504 of the Indian Penal Code.

2. The applicants are the in-laws of deceased Ujjwala. The prosecution story against the present applicants is that Shantaram Gunjal, who is real brother of applicant no.2 Chandrabhaga @ Yamunabai, has lodged a complaint, alleging that the son of the applicants married to his daughter Ujjwala. According to him, the behaviour of the main

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accused, namely, Yaduraj was not proper and he was addicted to liquor. The applicants, while acting in aid of said accused Yaduraj, have forced the victim Ujjwala to commit suicide.

3. Perused the case papers and heard learned Addl. Public Prosecutor at length, who is assisted by Mr Kulkarni, learned Counsel for the complainant.

4. Learned Counsel appearing on behalf of the applicants would urge that looking to the age of the applicants and the fact about their false implication in the crime in question, they are entitled to be enlarged on pre-arrest bail.

5. The prayer is opposed by the learned Addl. Public Prosecutor, on the ground that the investigation papers reflect that the son of the applicants, namely, Yaduraj has already acknowledged his past conduct of illtreating the victim Ujjwala by executing a bond and in view of the fact that Ujjwala has committed suicide by jumping before a running train, the involvement of the applicants in the crime in question, cannot be ruled out.

6. Mr Kulkarni, learned Counsel would submit that custody of three minor children of deceased Ujjwala, who are witnesses to the incident and have suffered injuries while their mother Ujjwala committed suicide, is with the applicants. The applicants are not permitting the prosecution to record the statements of these three children.

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7. Having considered rival submissions of the parties, it is required to be noted that the allegations against the present applicants, in the crime in question appear to be of acting in aid of accused Yadjuraj. This Court cannot lose sight of the fact that Ujjwala, the daughter of complainant Shantaram and applicant no.2 Chandrabhaga @ Yamunabai are closely related, i.e. complainant and applicant no.2 are real brother and sister. Apart therefrom, it is required to be noted that there are sweeping allegations against each of the family members, in the first information report. In this view of the matter and particularly, in view of proviso to section 437 of the Code of Criminal Procedure, in my opinion, it will be appropriate to grant pre-arrest bail to the applicants. I, therefore, pass following order :-

In the event of arrest of the applicants, in connection with C.R. No.57 of 2015, registered with Nandurbar Railway Police Station, for offences punishable under sections 306, 498-A, 323 and 504 of the Indian Penal Code, they be released on bail, on each of them furnishing P.R. Bond of Rs.10,000/- with one surety in the like amount.

The applicants shall attend the concerned police station, initially for a period of two days, between 10.00 a.m. and 11.00 a.m. and thereafter as and when called by the Investigating Officer.

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The applicants shall also facilitate, if the Investigating Officer desires to record statements of the children of deceased Ujjwala.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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