

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4866 OF 2015

- 1) Dnyaneshwar s/o Ginyandeo Pawar,
Age-26 years, Occu:Service,
- 2) Ginyandeo s/o Rupa @ Rupchand Pawar,
Age-52 years, Occu:Service,
- 3) Vimalbai w/o Ginyandeo Pawar,
Age-48 years, occu:Household,

All R/o-Pawarwadi-Pachegaon Tanda,
Tq-Georai, Dist-Beed.

...APPLICANTS

VERSUS

The State of Maharashtra,
Through Police Station, Georai,
Dist-Beed.

...RESPONDENTS

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Mr. M.V. Nagargoje Advocate for Applicants.
Mrs. M.S. Patni, A.P.P. for Respondent.
Mr. Bhausahab B. Bhise Advocate assist to
A.P.P.

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CORAM: A.I.S. CHEEMA, J.

DATE : 23RD SEPTEMBER, 2015

ORDER :

1. This is an Application for anticipatory bail filed by Applicant No.1 who is husband, Applicant Nos.2 and 3 who are parents-in-law of the victim Ranjana. It is stated that Mahadeo Dhondiram Rathod, father of the victim Ranjana has filed F.I.R. against five persons including the Applicants at Crime No.143 of 2015 with Georai Police Station, Dist-Beed, for the offences punishable under Sections 498-A and 304(B) of the Indian Penal Code. The Applicants had approached the Sessions Court at Beed for anticipatory bail. The anticipatory bail was allowed for two of the accused, who were brother-in-law of the deceased and his wife, of the deceased. The Applicants claim that they also should have been granted anticipatory bail for the reasons for which the other two accused have been granted anticipatory bail.

2. It is stated by the learned counsel for the Applicants that after the incident which took place on 18th July 2015, the victim was taken to Phynix Hospital Beed and there the dying declaration of the victim was recorded in the hospital by the Police, in which she had not put the blame on any of the accused persons and stated that in the heat of anger due to quarrel with the husband, she had consumed poisonous substance. Learned counsel submitted that later on she died on 24th July 2015 while taking treatment at Aurangabad and after her death, present F.I.R. was filed, making allegations of unlawful demands, ill-treatment and harassmt to the victim claiming that because of harassmt the victim had committed the suicide. It is stated that investigation is already over. The Additional Sessions Judge, while passing interim protection order, had put conditions that the Applicants should attend the police station and the

Applicants have been attending the police station and have been co-operating with the police and for such reasons, custodial interrogation is not necessary. When the Sessions Court rejected the application for anticipatory bail as regards the present Applicants, the Sessions Court has observed that the custodial interrogation of the Applicants was necessary for seizure of clothes of deceased from their possession and the tin box of poison. Learned counsel submitted that said articles have already been seized including the tin box of poison and now there is no reason why the Applicants should not be granted anticipatory bail.

3. Against this, the learned A.P.P. submitted that although victim Ranjana has given statement in the hospital not putting any blame on the Applicants, she had given oral dying declaration to her mother blaming the Applicants for her condition. It is stated that the victim

was ill-treated for not bringing money for buying tractor and as she did not bring money she was beaten, because of which she consumed poison. It is stated that Applicant No.1 had illicit relations with his sister-in-law because of which quarrels were taking place. This has been disclosed from the statement of the mother of the victim as well as neighbours to whom the victim had told about her condition. Thus Application may be rejected.

4. I have seen the the case-papers. It includes statement of deceased Ranjana, which can be stated to be 'dying declaration'. It was recorded on 19th July 2015 and shows that on 18th July 2015 victim had a quarrel with the Applicant No.1 - Dnyaneshwar " "घरगुती कारणांवरून" i.e. due to domestic reasons. The victim stated that she could not control her anger and there was nobody present in the house and she opened the plastic bottle of insecticide used for spraying on plants. She could

not bear the smell and some contents of insecticide fell on her person. She mentioned that out of anger she had consumed the poisonous substance. She stated that her in-laws had rushed to her help and brought her to the hospital. It is also stated that while giving the statement the doctor and her mother Kavita Bai were present.

5. Keeping this dying declaration in view and the fact that F.I.R. filed subsequently by the father of the victim and other case-papers gives another version, I find that this is appropriate matter where anticipatory bail should be granted. It is stated that Applicant No.1 is in service while Applicant No.3 is Grampanchayat Member and if arrested, they would suffer in their lives. Looking to the facts of the matter, the Application deserves to be allowed. Hence I pass following order:

O R D E R

(I) Criminal Application is allowed.

(II) It is directed that in the event of arrest of Applicant No.1 - Dnyaneshwar s/o Ginyandeo Pawar, Applicant No.2 - Ginyandeo s/o Rupa @ Rupchand Pawar and Applicant No.3- Vimalbai w/o Ginyandeo Pawar in connection with Crime No.143 of 2015 registered at Police Station, Georai, Tq-Georai, Dist-Beed for the offence punishable under Sections 498-A and 304(B) of the Indian Penal Code, the Applicants be released on anticipatory bail on executing P.R.B. and S.B. of Rs.15,000/- (Rupees Fifteen Thousand) each, with following conditions:-

(a) The Applicants shall make themselves available for interrogation by the investigating officer as and when required.

(b) The Applicant No.3 - Vimalbai w/o Ginyandeo Pawar, is concerned, being woman, she shall be called during day time only.

(c) The Applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the accusations against them so as to dissuade him from disclosing such facts to the Court or the investigating officer.

[A.I.S. CHEEMA, J.]