

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 659 OF 2015

1) Jayshreeprasad Jagadu Gautam)
2) Banvidevi Jayshreeprasad Gautam)
3) Kamlesh Jayshreeprasad Gautam)Applicants
vs.
The State of Maharashtra ... Respondent

Mr.Ashutosh Kaushik i/b. Kaushik & Co. Advocate, for the applicant.
Mr. Y.M.Nakhwa, APP, for the State.
Mr. J.N.Mate, P.I. L.A. III, Mumbai.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 13th August, 2015.

P.C.

Heard. This is an application under Section 439 of Cr.P.C.
The applicants herein are arrested on 20.12.2014 in Crime No.446 of 2014 registered at Kandivli Police Station for the offence punishable under Sections 304-B, 498-A, 504 read with Section 34 of Indian Penal Code. The investigation is completed and charge sheet is filed.

2. It is the case of the prosecution that on 20.12.2014, J. Prasad lodged a report at the police station alleging therein that his daughter Nisha got married to the applicant No.3 on 6.6.2014. That at the time of marriage, he

had given jewellery worth Rs.1,50,000/- and certain other valuables. On 12.12.2014, the complainant had called upon his wife on the cellphone and he was informed that the in-laws of their daughter Nisha are abusing her and assaulting her and therefore he was requested to go to Mumbai. The complainant wanted to come to Mumbai on 15.12.2014. However, on 14.12.2014, his wife had informed him that Nisha is not feeling well and therefore he was asked to call upon her. The complainant enquired with the family members of Nisha. They had called him home immediately and thereafter he learnt that Nisha had committed suicide by hanging.

3. The complainant has alleged that Nisha was assaulted, abused and ill-treated in her matrimonial house. That her mother-in-law was engaged in making imitation jewellery on contract. That she has forced Nisha to make imitation jewellery. That her father in law had an evil eye upon her. According to the complainant, Nisha was constrained to commit suicide and hence she committed suicide by hanging.

4. Initially, Accidental Death was registered vide A.D. No.159/2014. The Investigating Officer had recorded the statements of the neighbours in the A.D.Enquiry wherein they had informed the police that Nisha was a quiet girl. She would not mix up with anybody. She used to stay at home. That her husband used to work outside the Kandivli Railway

Station.

5. The supplementary statement of the complainant was recorded on 24.12.2014. He had given a list of the valuables given by him to his daughter and jewellery of Rs.1,50,000/-. The second supplementary statement was recorded on 26.12.2014 in which the complainant has alleged that the applicants herein were demanding dowry from the complainant. They used to coerce Nisha to fetch money. He has also placed on record a stamp paper on which the applicant No.3 had issued a receipt to his father-in-law that he had received Rs.37,000/- from his father-in-law.

6. Perused the papers of investigation, more particularly the post-mortem notes which shows that the cause of death is asphyxia due to hanging. There is nothing on record, prima facie, to suspect that it is a case of suicidal death. On the basis of the supplementary statement dated 26.12.2014, the applicants have been charge-sheeted for the offence punishable under Section 304-B of IPC.

7. The learned APP submits that the wife of the applicant No.3 has committed suicide within six months from the date of marriage and

therefore the applicants do not deserve to be enlarged on bail.

8. As against this, the learned counsel for the applicants submits that the recitals of the FIR would show that there were three grievances. The first grievance was that she was abused and ill-treated by the members of matrimonial family. That she was being forced to make imitation jewellery. That her father-in-law had an evil eye upon her and lastly that Nisha used to speak to her mother on cellphone. The CDR which forms part of the charge-sheet would clearly substantiate that Nisha was continuously talking to her mother. It is true that the applicants must have ventilated their grievances, however, it cannot be said that merely by ventilating their grievances they had any intention that Nisha should commit suicide. Prima facie, it cannot be said that the applicants had abetted, instigated or facilitated the commission of crime. The stamp paper signed by the applicant No.3 would substantiate that the said amount was not given towards dowry, but in all probabilities was a hand loan to the applicant No.3 to extend financial help to son-in-law.

9. Taking into consideration the papers of investigation, the submissions advanced across the Bar, coupled with the fact that the

applicants have been in jail for almost more than 8 months, this Court is inclined to enlarge the applicants on bail.

10. It is made clear that the above observations are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) The applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.15,000/- with one or more local sureties in the like amount.
- (iii) The applicants shall attend the Sessions Court once in six months on the dates as may be directed by the Sessions Court. In case of failure to attend on any two consecutive dates, the prosecution shall be at liberty to apply for cancellation of bail.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)