

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1077 OF 2015

1. Ateeq Abdul Rehman Aga	Applicants
2. Abdul Rehman Fair Aga	
V/s.	
The State of Maharashtra	Respondent

Ms. Anjali Patil a/w Mr. Arun Rajput for Applicants
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 29th JULY 2015

PC :

Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicants herein are arrested on 21/03/2015 in crime no. 55 of 2015 registered at Chunabhatti Police Station on 21/03/2015 for offence punishable under sections 498 (A), 306 r/w 34 of Indian Penal Code. Investigation is completed and charge-sheet is filed.

2) It is the case of prosecution that applicant no. 2 appears to be father of applicant no. 1. Applicant no. 1 had got married to Musarrat on 30/05/2014. It was a love marriage. It appears from the recitals of the F.I.R. that in February 2015, Musarrat had met with an accident. She had returned to her maternal house for taking treatment. Her husband i.e. present applicant was insisting

upon her to return to her matrimonial house and in the course of heated argument, he had informed her that in the event that she does not return to her matrimonial home, he would give her divorce. On 14/03/2015, she was informed that applicant is likely to pronounce divorce. On 15/03/2015, while Musarrat was in her maternal house, she committed suicide by consuming a poisonous substance. On 15/03/2015 itself, mother of Musarrat namely Raziabi Shaikh lodged a report at the police station on the basis of which crime no. 55 of 2015 was registered against the applicants for offence punishable under sections 498 (A), 306 r/w 34 of Indian Penal Code.

3) Learned counsel for the applicants rightly submits that wife of applicant had committed suicide in her maternal house. There is nothing on record to indicate that applicant had abetted, instigated or facilitated the commission of suicide. There is evidence to the contrary that wife of applicant was scared that her husband would pronounce divorce, since she had not returned to her matrimonial home.

4) Prima facie, there is nothing on record to hold that present applicant no. 2 had in any way abetted or instigated Musarrat to commit suicide. After she had left for her maternal house, there is nothing to indicate that applicant no.

2 had contacted her.

5) Taking into consideration the papers of investigation and submissions advanced across the bar, this Court is of the opinion that further incarceration of the applicants is unwarranted. It is made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicants be enlarged on bail on furnishing P. R. bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount.
- (iii) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)