

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 826 OF 2015

Mrs. Vimla Rajesh Khatik	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. B.P.Tiwari i/b. BBT Legal for applicant.
Mr. Prashant C. Sawant for the complainant.
Ms. P.P.Shinde, APP, for the State.
Mr. M.S.Nalawade, ASI, Vakiola Police Station present.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 6th July, 2015.

P.C.

Heard. This is an application under Section 438 of Cr.P.C.
The applicant is apprehending her arrest in Crime No.219 of 2015 registered at Vakola Police Station on 17.5.2015 for the offence punishable under Sections 498A, 306, 406, 504,323 read with Section 34 of IPC.

2. It is the case of the prosecution that on 17.5.2015, Kiran Pardeshi lodged a report at the police station alleging therein that his daughter is married to the son of the present applicant on 8.2.2014. She had conceived pregnancy. It is alleged that four months after the marriage, his daughter Manorama was being harassed by her husband and other members of the matrimonial family, including the present applicant. It is

specifically alleged that the present applicant was ill-treating Manorama. It is also alleged that she was being harassed on account of domestic chores. That on 16.5.2015, at about 5 a.m., the wife of the first informant received a phone call from her daughter who informed her that all the members of her matrimonial family are harassing and ill-treating her and are demanding Rs.10 lakhs for the business. On the same day at about 12 noon, the husband of the present applicant informed the mother that his daughter-in-law Manorama has committed suicide by hanging herself in her matrimonial house.

3. It appears from the record that initially, accidental death was reported on the basis of the report of the husband of the applicant. Thereafter, the informant lodged a report and offence was registered against all the accused.

4. The husband and son of the applicant have been arrested on 17.5.2015 and are in custody.

5. Perused the papers of investigation, and more particularly the post-mortem notes, clearly prima facie indicate that Manorama had committed suicide by hanging. Upon perusal of the first information report

and other material, it is apparent that the present applicant had meted Manorama with cruelty, ill-treatment and harassment and therefore has committed offence punishable under Section 498A of IPC. However, at this stage, it cannot be said that the present applicant had either abetted, instigated or facilitated the commission of suicide and therefore she would be entitled to pre-arrest bail.

6. The learned counsel appearing for the original complainant submits that being fed up with cruelty and ill-treatment meted out to her at the hands of the present applicant, Manorma has committed suicide in her matrimonial house. The learned counsel has specifically stated that in the first information report it is alleged that there was a demand of Rs.10 lakhs soon before she committed suicide and therefore it can be presumed that it is a case of dowry death and therefore the present applicant would not be entitled to grant of pre-arrest bail.

7. There are specific allegations that the Stridhan of Manorama has been retained by the present applicant. The papers of investigation would indicate that the mother of the victim Manorama had purchased golden jewellery which was gifted to her. It is made clear that the applicant shall not create any third party interest or retain the golden jewellery.

8. However, taking into consideration the fact that the husband of the applicant and her son are in custody, the allegations levelled against the applicant are covered under Section 498A of IPC and therefore the applicant being a woman would be entitled to grant of pre-arrest bail. However, the same observations shall not be considered for the application filed by the husband or son of the present applicant and their case shall be considered on its own merits. The other accused shall not claim parity with the present applicant in any manner as the observations made hereinabove 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. The Court also cannot be oblivious of the fact that similar allegations have been levelled against the unmarried daughter of the present applicant. She has been protected by grant of pre-arrest bail by the Sessions Court.
9. In view of the above circumstances, the application deserves to be granted.

ORDER

- (i) In the event of her arrest, the applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(ii) The applicant shall report to the concerned police station as and when called and shall co-operate with the investigating agency to the best of her capacity.

Application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)