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

CRIMINAL APPLICATION NO.164 OF 2016

Sau. Usha w/o Rajaram Khanse ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr N.V. Gaware, Advocate for applicant;
Mr S.Y. Mahajan, Addl. Public Prosecutor for respondent;
Mr Amol S. Gandhi, Advocate to assist Addl. Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 27th January, 2016

ORDER :

By this application under section 438 of the Code of Criminal Procedure, the applicant seeks his release on pre-arrest bail, in connection with C.R. No.I-152 of 2015, registered with Belwandi police station, Tq. Shrigonda, for offences punishable under sections 498-A, 304-B read with section 34 of the Indian Penal Code and under sections 3 and 4 of the Dowry Prohibition Act.

2. The prosecution case against the applicant is that her son, namely, Tukaram married to Geeta @ Deepali, the daughter of the complainant on 28th April, 2015.

3. It is within a period of six months, Geeta @ Deepali committed suicide, resulting into registration of the crime in question. Demand of

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dowry and illtreatment meted out to Geeta @ Deepali by the present applicant, is attributed to be the cause for such suicide.

4. While trying to make out a case for grant of pre-arrest bail, learned Counsel appearing on behalf of the applicant submits that the applicant, who is working as an Assistant Teacher in Zilla Parishad school, is ready and willing to undergo the investigation and has also volunteered to surrender her mobile phone, for the purpose of investigation. Thus, he prayed to grant pre-arrest bail to the applicant.

5. Learned Addl. Public Prosecutor, while trying to oppose the application, would urge that the statements of the brother and mother of deceased Deepali depict *prima facie* involvement of the applicants in commission of the crime. He would then urge that though the husband and father-in-law of deceased Deepali are behind bars, the presumption under the Evidence Act, particularly under section 113-A, is required to be considered by this Court, in view of death of the deceased within a period of six months from the date of marriage. Thus, he prayed to reject the application.

6. Mr Gandhi, learned Counsel appearing on behalf of the complainant would strenuously urge that custodial interrogation of the applicant is necessary, as there is strong evidence against the applicant in respect of abetting the crime in question.

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7. Perused the investigation papers.
8. The fact remains that the applicant, being a public servant, is available for the investigation and there is hardly any likelihood that she would run away from the investigation.
9. Apart from above, there are hardly any convincing reasons for custodial interrogation of the applicant. Having regard to the contents of the first information report and the other investigation papers, in my opinion, custodial interrogation of the applicant is not necessary.
10. In that view of the matter, in my opinion, it will be appropriate to order release of the applicant on pre-arrest bail. I, therefore, pass following order :-

In the event of arrest of the applicant, in connection with C.R. No.I-152 of 2015, registered with Belwandi police station, Tq. Shrigonda, for offences punishable under sections 498-A, 304-B read with section 34 of the Indian Penal Code and under sections 3 and 4 of the Dowry Prohibition Act, she be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

The applicant shall attend the concerned police station, initially during the period from 1st February to 3rd February, 2016, between 10.00 a.m. and 12 noon and thereafter as and when called by the Investigating Officer.

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Criminal Application No.164 of 2016 stands allowed in above terms.

(N.W. SAMBRE, J.)

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