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

CRIMINAL APPLICATION NO.657 OF 2016

Dadarao s/o Amruta Gaikwad ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr G.P. Shinde, Advocate for applicant;
Mr A.S. Shinde, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 23rd February, 2016

ORDER :

By the present application under section 438 of the Code of Criminal Procedure, the applicant is seeking pre-arrest bail, in connection with C.R. No.1 of 2016, registered with Sindkhed police station, Dist. Nanded, for offences punishable under sections 306, 304-B and 498-A read with section 34 of the Indian Penal Code.

2. The incident is alleged to have taken place on 4th January, 2016, for which the first information report is lodged on 5th January, 2016.

3. The case of the prosecution is that the applicant is a well wisher of the in-laws of deceased Archana @ Anita and is a resident of the same village where deceased was residing with her husband – Aniruddha s/o Subhash Mujmule. It is claimed that the marriage of deceased Archana @

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Anita took place some time three years back and thereafter there was consistent demand of dowry, for which she was subjected to cruelty.

4. The offence came to be registered pursuant to the complaint dated 5th January, 2016 lodged by the father of deceased Archana @ Anita, namely Ramesh Jadhav. The role attributed to the present applicant is that he, being relative of the in-laws of his daughter, has instigated the in-laws to subject deceased Archana @ Anita to cruelty.

5. In the above background, learned Counsel appearing on behalf of the applicant, while trying to make out a case for grant of pre-arrest bail, would urge that the applicant is no way related with the in-laws of the deceased Archana @ Anita. He would then urge that the applicant being a villager has informed the complainant about the death of his daughter and as such, the complainant has named him in the crime in question. He would submit that the first information report speaks of cause of death because of consumption of poison and it is not the case of the prosecution that the applicant has administered poison to deceased Archana @ Anita. He would then urge that custodial interrogation of the applicant is not necessary.

6. Mr Shinde, learned Addl. Public Prosecutor, while inviting attention of this Court to section 113-B of the Evidence Act would urge that the applicant can be considered to have committed the offence, for which presumption is against the applicant under the said provisions. He would

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then urge that in view thereof, custodial interrogation of the applicant is necessary.

7. Perused the investigation papers. The cause of death as is reflected from the investigation papers speaks of death because of poisoning. It is not the case of the prosecution as against the applicant that he was responsible to administer poison. The role attributed to the applicant is that he has instigated the in-laws of deceased Archana @ Anita to subject her to cruelty on account of demand of dowry. In this background, in my opinion, custodial interrogation of the applicant is not necessary.

8. In view thereof, I pass the following order :-

In the event of arrest of the applicants, in connection with C.R. No.1 of 2016, registered with Sindkhed police station, Dist. Nanded, for offences punishable under sections 306, 304-B and 498-A read with section 34 of the Indian Penal Code, he be released on bail, 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 on 1st and 2nd March, 2016 and thereafter as and when called by the Investigating Officer.

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Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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