

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

CRIMINAL APPLICATION NO.773 OF 2016

1. Ayub s/o Mohammadi Qureshi,
Age 37 years, Occu. Business
Resident of Shirad Shahapur,
Taluka Aundha, Dist. Hingoli
2. Rafiyabee w/o Ayub Qureshi,
Age 34 years, Occu. Household
Resident of Shirad Shahapur,
Taluka Aundha, Dist. Hingoli
3. Zuleqa Begum w/o Shabab
Qureshi, Age 35 years,
Occu. Household, Resident of
near Satyanarayan Talkies,
Basmath, District Hingoli .. Applicants

Versus

- . The State of Maharashtra,
through Kurunda Police Station,
Taluka Basmath, District Hingoli .. Respondent

Mrs A.N. Ansari, Advocate for applicants
Mr A.S. Shinde, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 16th February 2016

PER COURT

Heard.

2. The applicants are seeking pre-arrest bail in Crime No.121 of 2015 registered on 24th December 2015 at Kurunda Police Station, District Hingoli, for the offences punishable under Sections 302, 498-A, 201 read with Sec.34 of Indian Penal Code, for an incident dated 20th December 2015.

3. The prosecution story against the present applicants is that the applicants, who are named as accused in above referred crime, have assaulted the deceased Jakirabee for non-fulfillment of demand of dowry. The role attributed to all the applicants is ill-treatment, but specific role attributed to applicant No.1 - Ayub is, making phone call to the complainant intimating death of Jakirabee because of some health issue.

4. It is, after lodging of complaint, the body of deceased Jakirabee was exhumed and after performing post mortem, it was noticed that the cause of death of Jakirabee was because to hanging.

5. In this background, while making out the case for granting pre-arrest bail, Mrs Ansari, learned Counsel for the applicants would urge that all these applicants are not residents of Shirsala, District Hingoli. According to her, the applicants No.1 and 2 are residents of Shirad Shahapur, Dist. Hingoli, whereas accused No.3 is resident of Basmath. Accused were not present in the kitchen where the crime took place.

6. Learned Counsel for the applicant would rely upon the property documents and Aadhar Card so as to substantiate the plea of alibi. .

7. Learned Addl. Public Prosecutor, while opposing the application would urge that during the investigation, it was noticed that there was ill-treatment to the deceased Jakirabee at the behest of present applicants, as is apparent from the statements of neighbours. He would then urge that applicant No.1 - Ayub has called the complainant intimating about the death of Jahirabee because of ill-health.

8. According to learned A.P.P., there is prima facie case against the accused persons.

9. In my opinion, the investigation papers depict that the applicant No.1 Ayub has admittedly given phone call to the complainant intimating the cause of death of Jakirbee because of ill-health. It is subsequent to exhuming the body of Jakirabee, post mortem notes certify the cause of death was homicidal death.

10. The involvement of applicant No.1 - Ayub in the present crime as such appears to be in support of other accused persons. As such, application for granting pre-arrest bail to applicant No.1-Ayub stands rejected.

11. So far as respondents No.2 and 3 are concerned, there is no direct material on record to connect them to the crime in question, particularly having regard to their place of abode, but for the allegation of ill-treatment as is noted in the investigation. It is not the case of prosecution that applicants No.2 and 3 were also present nor the evidence to that effect establishes their presence.

12. In that view of the matter, applicants No.2 and 3 are entitled to be released on pre-arrest bail.

13. In the event of arrest in Crime No.121 of 2015 registered on 24th December 2015 at Kurunda Police Station, District Hingoli, for the offences punishable under Sections 302, 498-A, 201 read with Sec.34 of Indian Penal Code, for an incident dated 20th December 2015, the applicant No.2 - Rafiyabee Ayub Qureshi and applicant No.3 Zulega

begum Shabab Qureshi be released on bail, upon furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount, by each of them.

14. The applicants No.2 and 3 shall attend the concerned Police Station on 25th and 26th February 2016 between 10.00 a.m. and 12.00 noon and thereafter, as and when called.

15. Criminal Application stands allowed to the extent of applicants No.2 and 3 in above terms.

16. The above observations are prima facie in nature.

(N.W. SAMBRE, J.)

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