

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

CRIMINAL APPLICATION NO. 889 OF 2016

1. Balaji s/o Bapurao Surnar,
Age: 53 years, Occ: Service,
R/o. Shrinagar, Ahmedpur,
Tq. Ahmedpur, Dist. Latur.
 2. Smt. Laxmibai w/o Balaji Surnar,
Age: 46 years, Occ: Household,
R/o. Shrinagar, Ahmedpur,
Tq. Ahmedpur, Dist. Latur.
- ...Applicants

versus

The State of Maharashtra
Through the Superintendent of Police,
Parbhani, Dist. Parbhani & anr.

...Respondents

WITH
CRIMINAL APPLICATION NO. 1068 OF 2016
IN
CRIMINAL APPLICATION NO. 889 OF 2016

Jyotibai w/o Sandip Surnar (Minor)
Age: 53 years, Occ: Service,
R/o. Shrinagar, Ahmedpur,
Tq. Ahmedpur, Dist. Latur.

...Applicant

versus

Balaji s/o Bapurao Surnar,
Age: 53 years, Occ: Service,
R/o. Shrinagar, Ahmedpur,
Tq. Ahmedpur, Dist. Latur & ors.

...Respondents

.....
Mr. A.R. Rathod, Advocate for applicant in Criminal
Application No. 889 of 2016
Mr. S.P. Sonpawale, A.P.P. for respondents
Mr. V.M. Maney, Advocate to assist A.P.P.
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CORAM : N.W. SAMBRE, J.

DATE : 16th FEBRUARY, 2016

ORAL ORDER :

For the reasons stated in the application, Criminal Application No. 1068 of 2016 for permission to assist A.P.P. stands allowed.

2. The applicant is seeking pre-arrest bail in connection with Crime No. 132 of 2015 registered with Palam Police Station, District Parbhani for the offence punishable under Sections 307, 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code.

3. The alleged incident took place in between May 2014 to 25/11/2015. The crime came to be registered on 28/11/2015 pursuant to complaint lodged by victim herself i.e. Jyotibai.

4. It is claimed that the prosecution case against the present applicant is that applicant's son namely Sandip got married to Jyotibai in May 2015 and as demand of dowry was not honoured, the complainant was subjected to illtreatment and cruelty. It is alleged that on or about 25/11/2015 the husband of victim caught hold her heir and made her to fall on the ground. The applicant Laxmibai caught hold her legs, whereas her brother in law Laxman caught hold her hands and applicant Balaji administered poison by sitting on her chest. In this background, the applicants are entitled for

pre-arrest bail. Learned Counsel for the applicants submits that the applicants are entitled for bail on the ground that the story narrated in the F.I.R. is improbable. Learned Counsel would then invite my attention to the contents of F.I.R. wherein the complainant has narrated that she has shown tremendous resistance of the alleged act of the applicants of administering her poison. He would then urge that perusal of the investigation papers must depict corresponding injury of such resistance. He would then submit that only upon differences in between the applicants and complainant, falsely implicated the applicants in crime in question.

5. Learned A.P.P. assisted by Mr. Maney, learned Counsel for the complainant, has strongly opposed the application on the ground that Section 113-A of Evidence Act is attracted, as according to them, within period of five months from the date of marriage, the incident took place. Learned A.P.P. would then urge that the story narrated in the F.I.R. is probable and the complainant was required to be hospitalized for period of three days and thereafter, offence came to be registered. According to him, there is strong *prima facie* case against the applicants and as such, prays that the application for bail be rejected.

6. Perused the investigation papers. It is required to be

noted that it is the case of the complainant that her father in law administered her poison by sitting on her chest, whereas her mother in law was holding her hands. She claims to have shown resistance, however, upon perusal of the investigation papers, particularly medical papers in relation to the complainant, not a single injury is noticed on her body. In view thereof, false implication of the applicants cannot be ruled out. Hence, the following order :-

In the event of arrest, the applicants be released on bail, in connection with Crime No. 132 of 2015 registered with Palam Police Station, District Parbhani for the offence punishable under Sections 307, 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount, by each of them. The applicants shall attend the concerned police station every day on 25th, 26th and 27th February, 2015 in between 10-00 a.m., to 12-00 noon and thereafter as and when called by Investigating Officer.

7. Criminal Application No. 889 of 2016 stands allowed in above terms.

[N.W. SAMBRE, J.]