

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

Criminal Application No. 2671 of 2016

District : Osmanabad

Shardabai w/o. Vitthalrao Patil,
Age : 60 years,
Occupation : Household,
R/o. Ganesh Nagar, Osmanabad,
Taluka & District : Osmanabad. .. Applicant.

versus

The State of Maharashtra,
Through Police Inspector,
City Police Station,
Osmanabad,
Taluka & District : Osmanabad. .. Respondent.

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Mr. R.R. Karpe, Advocate, for the applicant.

*Ms. R.P. Gour, Addl. Public Prosecutor, for
the respondent.*

*Mr. D.M. Hange, Advocate, for the original
complainant.*

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CORAM : N.W. SAMBRE, J.

DATE : 22ND JUNE 2016

ORAL ORDER :

Heard.

2. The applicant is seeking pre-arrest bail in

connection with Crime No. 96/2016, registered at City Police Station, Osmanabad, District Osmanabad, for offences punishable under Sections 304B, 498A, read with Section 34 of the Indian Penal Code.

3. The prosecution story as against the applicant is that the applicant's son Vitthal was married with Megha, daughter of the complainant, on 20.02.2014 and they were having a son out of the wedlock. It is then claimed that the present applicant along with her son Vitthal had treated deceased Megha with cruelty and assaulted her for non-fulfillment of demand of dowry. It is then claimed that Megha committed suicide on 28th March 2016. As such, offence in question.

4. The learned Counsel for the applicant would urge that the applicant, a woman, is aged about 60 years and is very much available for the investigation and for prosecution. According to him, the applicant is in no way involved in the crime in question and there are vague allegations against the applicant. He would then submit that Megha might have died because of an accident as she was suffering from low eye sight.

5. According to the learned Counsel for the applicant, custodial interrogation of the applicant is not necessary. Therefore, he has urged that the

applicant may be granted pre-arrest bail.

6. The learned Addl. Public Prosecutor has strenuously opposed the application on the ground that the victim has lost her life within two years of her marriage. The learned Addl. Public Prosecutor then invites my attention to the statement of an eye witness, namely, Sudarshan Kalidas Kamble, who claim to be a person who extinguished fire on the person of deceased Megha when he noticed that she was burning in the bathroom of the house and calling for rescue. According to the learned Addl. Public Prosecutor, the said witness speaks of the presence of the applicant on the spot, however, the applicant had not taken any steps for extinguishing the fire.

7. The learned Addl. Public Prosecutor is assisted by the learned Counsel for the complainant. According to the learned Counsel for the complainant, bail needs to be rejected in view of the presumption as is available under the Evidence Act, particularly Section 114 thereof, as the death has occurred within 7 years of the date of marriage. According to him, the complainant and other witnesses have stated about direct involvement of the applicant with the crime in question.

8. With the assistance of the learned Addl. Public Prosecutor, I have perused the investigation

papers. The dying declaration of deceased Megha recorded by the Police and the Executive Magistrate speaks of non-involvement of the applicant in the crime in question as deceased Megha has claimed that she got fire due to accident. Furthermore, there is delay of about 10 days in recording statement of the alleged eye witness Sudarshan Kalidas Kamble. It is also brought on record that the deceased Megha was having low eye sight, perhaps it was a cause for accident resulting into the death because of fire.

9. In this background, in my opinion, applicant's custodial interrogation is no more required and the applicant deserves to be granted pre-arrest bail in connection with the crime in question.

10. Hence, the Application is allowed.

Ad interim protection granted by this Court vide order dated 8th June 2016 is confirmed, subject to the condition that the applicant shall attend City Police Station, Osmanabad, as and when reasonably called by the Investigating Officer for the purpose of investigation. The applicant shall not contact any of the prosecution witnesses and she shall not try to tamper with the prosecution evidence in any manner whatsoever.

11. The Criminal Application stands disposed of
in the aforesaid terms.

(N.W. SAMBRE)
JUDGE

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