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

CRIMINAL APPLICATION NO. 2923 OF 2016

1. Balaji Devidas Suryawanshi
2. Ramesh Devidas Suryawanshi
3. Smt. Laxmibai @ Kisnabai w/o.
Devidas Suryawanshi ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr V. D. Gunale, Advocate for applicants;
Mr C. V. Dharurkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 25th July, 2016

ORAL ORDER :

The applicants are seeking their release on regular bail, in connection with Crime No. 45 of 2016, registered with Jalkot Police Station, Tq. Jalkot, Dist. Latur, for offences punishable under Sections 498-A, 304-B read with Section 34 of the Indian Penal Code, for the alleged incident dated 9th April, 2016, for which first information report came to be lodged on 10th April, 2016.

2. It is the case of the prosecution against the present applicants that applicant Nos. 1 and 2 are sons of applicant No. 3. Applicant No. 1 - Balaji was married to the daughter of complainant Shashikala Ashokrao

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Danve, namely Swati, who expired on 9th April, 2016 in suspicious circumstances, which resulted into lodging first information report and registration of crime in question.

3. Mr Gunale, learned Counsel appearing on behalf of the applicants would urge that the applicants are falsely named as accused in crime in question. So as to substantiate his contention, he would urge that the applicant No. 1 - Balaji, who was married to deceased Swati, is working as a Teacher, whereas applicant No. 2 is a student. Applicant No. 3 - Laxmibai is a housewife. He would then submit that looking to the nature of the allegations in the first information report and statements of independent witnesses, it is really hard to believe that applicants have committed the crime in question. He would then submit that deceased Swati was pregnant and there is no material on record to depict that the applicants have driven her to commit suicide or have committed murder - culpable homicide not amounting to murder.

4. Learned Additional Public Prosecutor opposed the application based on the investigation papers and submits that custodial interrogation of the applicants is very much necessary.

5. From the record, it depicts that the Doctors, who have performed post-mortem have given following opinion :

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"Exact opinion as to cause of death cannot be ascertained due to gross signs of decomposition. However, possibility of death due to head injury cannot be denied in the instant case"

6. As noticed from the nature of the injuries to deceased Swati from the post-mortem report is that she suffered a contusion over the left temporo-parieto-occipital region of head. So far as surface injuries are concerned, she suffered multiple abrasions on lateral aspect of chest, however, no other external injuries were noticed.

7. It is not the case of the prosecution that when the incident took place, but for applicant No. 3 - Laxmibai, the remaining applicants were present at the scene of the incident. The statements of the eye-witnesses rather demonstrate that all the applicants have tried to save deceased Swati.

8. In the above background, in my opinion, the ingredients of offences punishable under Sections 498-A and Section 304-B of the Indian Penal Code, prima facie cannot be claimed to have been attracted against the applicants. The material placed on record speaks that whole incident is of 2013, whereafter, deceased Swati was re-united with applicant No. 1 – Balaji and she was carrying pregnancy, which speaks of harmonial relationship between applicant No. 1 and deceased Swati. In absence of any incriminating circumstances against the applicants, in my opinion, their custodial interrogation is uncalled for.

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9. In the above background, in my opinion, the applicants are entitled to be released on bail. Hence I pass following order :

(a) The applicants be released on bail, in connection with Crime No. 45 of 2016, registered with Jalkot Police Station, Tq. Jalkot, Dist. Latur, for offences punishable under Sections 498-A and 304-B read with Section 34 of the Indian Penal Code, on each of them furnishing P.R. Bond of Rs. 15,000/- with one surety in the like amount.

(b) The applicants shall not tamper the prosecution evidence and shall not influence the prosecution witnesses.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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