

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

Criminal Application No. 4277 of 2016

District : Beed

1. Ayodhya w/o. Dinkar Waghmare,
Age : 37 years,
Occupation : Household.
2. Kachrubai w/o. Tukaram Waghmare,
Age : 70 years,
Occupation : Household.

Both are R/o. Salimba,
Taluka : Wadwani,
District : Beed.

.. Applicants.

versus

1. The State of Maharashtra,
Through Police Station,
Wadwani, Dist. Beed.
2. The Superintendent of Police,
Beed, Dist. Beed.

.. Respondents.

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Mr. S.J. Salunke, Advocate, for applicants.

*Mr. S.M. Ganachari, Addl. Public Prosecutor, for
respondent nos.1 and 2.*

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CORAM : A.M. BADAR, J.

DATE : 22ND AUGUST 2016

ORAL ORDER:

By this application, applicants who are

mother-in-law and grandmother of husband of deceased Sunita Datta Waghmare, are praying for pre-arrest bail in Crime No. 121/2016, registered with Police Station, Wadwani, District Beed, for offences punishable under Sections 304B, 306, 498A, 504, 507 read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act.

2. Heard the learned Counsel for applicants as well as the learned Addl. Public Prosecutor for respondents.

3. The learned Addl. Public Prosecutor opposed the application by contending that parental relatives of deceased Sunita are speaking about harassment to her on account of demand of dowry of Rs. 1,00,000/-.

4. Perused the case diary. The case diary itself reflects that in respect of death of Sunita, report of her accidental death was lodged by her father Angad Janardhan Gaikwad on 04.07.2016.

5. According to the prosecution case, Sunita married Datta on 28.02.2016. She committed suicide by jumping in the well on 04.07.2016. This incident happened in the field of the informant - father of deceased Sunita. Within five months from her marriage with accused Datta, Sunita died suicidal death. As such, her death is otherwise than in

normal circumstances.

6. Perusal of the FIR lodged by Angad shows that balance amount of Rs. 1,00,000/- towards dowry was agreed to be paid at the time of Diwali festival. Prior to that, on account of *Aakhadi* month, Sunita was brought back to her parental house by informant - father Angad Gaikwad. This happened on 03.07.2016. On 04.07.2016 at about 04.00 p.m., while talking on the cellphone, Sunita reached in the field of her father and within a short time, she committed suicide by jumping in the well.

7. In order to make out a *prima facie* case for offence punishable under Section 304B of the IPC, death of the victim is required to be proved by burns or bodily injuries or otherwise than in normal circumstances, within 7 years of the marriage. It is also required to establish that the deceased was subjected to cruelty or harassment soon before her death. Similarly, for abetment *mens rea* and knowledge is must.

8. In the case in hand, immediately after her death, her father had lodged report under Section 155 of the Code of Criminal Procedure, 1973, alleging accidental death of Sunita. Thereafter, as seen from the case diary, the spot was inspected by Police, dead body was dispatched for autopsy after taking

inquest notes. Even cellphone of the deceased came to be seized. Thereafter, on 08.07.2016, FIR came to be lodged by the informant - father of deceased Sunita.

9. Perusal of papers of investigation do show that soon prior to her death, Sunita had talks with her husband Datta on cellphone. Datta, husband of deceased Sunita, is already arrested and behind the bar. When the FIR itself shows that there was agreement to pay the balance amount of dowry at the time of Diwali festival, in the wake of initial lodging of the report of accidental death and consequent delay in lodgment of FIR, averments in the FIR will have to be looked into. Rather there was no cause for harassing the deceased by applicants who are women, when the balance amount of dowry was agreed to be paid subsequently at the Diwali festival. That apart, considering the fact that applicants are women, their custodial interrogation and consequent pre-trial detention is not warranted.

10. Hence, I pass the following order :-

(a) The application is allowed.

(b) The interim order dated 5th August 2016, granting ad interim anticipatory bail to applicants, is confirmed on the same terms and conditions.

(c) As a condition of this order, applicants shall report to the concerned Police Station on 28th August 2016, in between 11.00 a.m. to 01.00 p.m. and thereafter as and when reasonably called by the Investigating Officer for the purpose of investigation.

(d) Applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

(e) Applicants shall not try to tamper with the prosecution evidence in any manner whatsoever.

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

(A.M. BADAR)
JUDGE

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