

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

911 CRIMINAL APPLICATION NO. 5092 OF 2016

**MALEKHA BEGUM W/O AHMED KHA
PATHAN & ANR.**

VERSUS

THE STATE OF MAHARASHTRA

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Mr. S.S.Ladda, Advocate for Applicants.

Mr. S.P.Sonpawle, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 14th OCTOBER, 2016

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PER COURT :

1. The applicants/accused in Crime No. I-111/2016 registered at Sillod police station, Tq. Sillod, Dist. Aurangabad for the offences punishable u/ss 304-B,306,498-A,323 read with 34 of the Indian Penal Code and u/ss 3 and 4 of the Dowry Prohibition Act, by this application are seeking their release on bail after filing of the charge sheet.

2. Heard the learned counsel for applicants/accused.

He argued that applicant No. 1 is mother-in-law whereas applicant No. 2 is widowed sister-in-law of deceased Shabanabee. The learned counsel argued that perusal of the F.I.R. itself shows that the deceased was at her parental house for about 1 ½ months prior to the incident. By pointing out the F.I.R., the learned counsel argued that at the time of marriage, even according to the prosecution case, an amount of ₹ 50,000/- was paid and subsequently amount of ₹ 30,000/- was paid. Therefore, in submission of the learned counsel for the applicants, when the incident in question took place immediately after the deceased was reached to her matrimonial house, there is no question of inflicting cruelty to her by the accused persons. My attention was also drawn to the statement of Jakiyabee w/o Jaker Pathan, a neighbour of deceased, to show that all was well in the married life of Shabanabee.

3. The learned A.P.P. opposed the application by contending that the death is within 7 years of married life of Shabanabee and there was cruelty to her on account of demand of dowry.

4. Perused the charge sheet. Considered the rival submissions. The F.I.R. in question is lodged by the father of deceased Shabanabee. Undisputedly, applicant No. 1 is mother-in-law whereas applicant No. 2 is sister-in-law of deceased Shabanabee. According to the prosecution case, Shabanabee married Naeem Khan on 15/03/2015. Statements of the informant as well as the relatives of deceased Shabanabee show that at the time of marriage, dowry of ₹ 1 Lakh was fixed and out of that amount, ₹ 50,000/- was paid. The statements of witnesses and the F.I.R. reveal that after few months from marriage, both the applicants as well as the husband of deceased Shabanabee were coercing her on account of demand of balance amount of ₹ 50,000/- towards dowry. It is seen from the statements of the witnesses that the applicants and the husband of the deceased were assaulting her daily. They were not providing food to deceased Shabanabee and were torturing her on account of demand of balance amount of dowry. The informant as well as parental relatives of the deceased have stated that 3 months prior to the incident, ₹ 30,000/- was paid to the applicants and the husband of deceased Shabanabee and only ₹ 20,000/- remain to be paid. The prosecution

witnesses are stating that for bringing the balance amount of ₹ 20,000/-, Shabanabee was subjected to cruelty and ultimately she was driven out of the house by her in-laws. On 12/07/2016, her in-laws called Shabanabee to the matrimonial house. On 13/07/2016 she was reached at her matrimonial house. The charge sheet shows that on 14/07/2016, Shabanabee indulged in self-effacement by pouring kerosene on her person and setting her ablaze. She died while taking treatment at Government hospital at Aurangabad on the very same day. It is thus seen that in about 16 months of her married life, Shabanabee died unnatural death in the house of her in-laws. The statements of her parental relatives consistently show that she was denied food, she was even beaten daily and this cruelty was on account of coercing her for bringing balance amount of dowry. Thus, *prima facie*, it is seen that the death occurred within 7 years from the married life of Shabanabee and it was preceded by cruel treatment to the deceased by the applicants as well as her husband. The offence alleged is anti-social and serious. Though the witness, who is neighbour of Shabanabee, has stated that there was no harassment or cruelty to the deceased, but there is nothing in the statement of said

Jakiyabee to show that the deceased was in talking terms with her in order to enable Jakiyabee as to what was happening in the married life of Shabanabee. In this view of the matter, no case for bail is made out. Hence, the following order.

5. The Criminal Application stands rejected.

[A.M.BADAR, J.]