

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

Criminal Application No. 5345 of 2016

District : Jalgaon

Kum. Sana @ Babali D/o.
Mohammad Rafik Mujawar,
Age : 22 years,
Occupation : Education,
R/o. Ghat Road,
Barabhai Mohalla,
Chalisgaon,
Taluka : Chalisgaon,
District : Jalgaon.

.. Applicant.

versus

The State of Maharashtra,
Through Police Inspector,
Chalisgaon City Police Station,
Chalisgaon,
Taluka : Chalisgaon,
District : Jalgaon.

.. Respondent.

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*Mr. Surendra V. Suryawanshi, Advocate, for the
applicant.*

*Mr. S.P. Sonpawale, Addl. Public Prosecutor, for
the respondent.*

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CORAM : A.M. BADAR, J.

DATE : 5TH OCTOBER 2016

ORAL ORDER:

This is an application for grant of

anticipatory bail by the applicant who is sister-in-law of the deceased. The applicant is an accused in Crime No. 125/2016 registered with Chalisgaon City Police Station, Chalisgaon, District Jalgaon, for offences punishable under Sections 304B, 498A, 120B, 201, 504, read with Section 34 of the Indian Penal Code.

2. Heard the learned Counsel appearing for the applicant / accused. He argued that the applicant is just 22 years of age. She is unmarried and she is prosecuting her studies. The incident in question is in respect of death of her sister-in-law at her house. The learned Counsel further argued that averments against the present applicant in the FIR lodged by father of the deceased, who himself was in Police Department, are omnibus and sweeping. The learned Counsel therefore argued that the custodial interrogation of the present applicant is not warranted.

3. The learned Addl. Public Prosecutor opposed the application by contending that there are specific allegations against the present applicant regarding harassment to a married woman for and on account of demand of dowry and there is death of a married woman within two and half months of her marriage with brother of the present applicant.

4. Perused the FIR as well as record made available. On 11th May 2016, Nikhat married Vasim s/o. Rafiq Mujawar and thereafter started residing at her matrimonial house. According to the prosecution case, the present applicant, who is unmarried sister of the husband, was also residing in the said house.

5. Perusal of the FIR shows that allegations against the present applicant is to the effect that she used to give abuses to Nikhat. It is not averred that the applicant was subjecting Nikhat to any physical cruelty. It is averred that there was demand of Rs. 1,00,000/- from Nikhat.

6. Section 304B of the IPC requires cruelty or harassment by husband or his relatives soon before death of a married woman for or on account of demand of dowry. The term 'cruelty' is defined in Explanation to Section 498A of the IPC. It requires harsh and harmful conduct of certain intensity and persistence. Viewing from this angle, I am of the considered opinion that custodial interrogation of the applicant, who is a student prosecuting her studies, in the wake of allegations against her, is not warranted.

7. Hence, I pass the following order :-

(a) The Application is allowed.

(b) The applicant / accused, in the above crime, in the event of her arrest, be released on bail on her executing P.R. Bond in the sum of Rs. 25,000/- and on furnishing one or more solvent sureties of the like amount, on the following conditions :-

(i) The applicant shall cooperate the investigator in investigation of the crime in question by attending the concerned Police Station as and when reasonably called during day hours.

(ii) The applicant 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.

(iii) The applicant shall not tamper with the prosecution evidence in any manner.

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

(A.M. BADAR)
JUDGE

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