

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

Criminal Application No. 5614 of 2016

District : Latur

1. Mr. Dharmesh Ravi Bhanushali,
Aged : 26 years,
Occupation : Business,
Residing at : Natvar Parekh
Compound, G.M. Link Road,
7/A, Room No. 105, Ganesh,
Darshan Housing Society,
Shivajinagar (Kurla),
Mumbai - 400 043.
2. Mrs. Nirmala Ravi Bhanushali,
Aged : 46 years,
Occupation : Housewife,
Residing at : Natvar Parekh
Compound, G.M. Link Road,
7/A, Room No. 105, Ganesh,
Darshan Housing Society,
Shivajinagar (Kurla),
Mumbai - 400 043.
3. Miss. Priti Ravi Bhanushali,
Aged : 22 years,
Occupation : Student,
Residing at : Natvar Parekh
Compound, G.M. Link Road,
7/A, Room No. 105, Ganesh,
Darshan Housing Society,
Shivajinagar (Kurla),
Mumbai - 400 043.
4. Miss. Heena Ravi Bhanushali,
Aged : 20 years,
Occupation : Student,
Residing at : Natvar Parekh
Compound, G.M. Link Road,
7/A, Room No. 105, Ganesh,
Darshan Housing Society,
Shivajinagar (Kurla),
Mumbai - 400 043.

.. Applicants.

versus

The State of Maharashtra,
Through its Govt. Pleader
& Police Station, Udgir (City). .. Respondent.

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*Mr. F.A. Sothe & Mr. Pravin N. Kalani, Advocates,
for applicants.*

*Mr. S.M. Ganachari, Addl. Public Prosecutor, for
the respondent.*

*Mr. Rajiv B. Deshmukh, Advocate, for the original
complainant.*

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CORAM : A.M. BADAR, J.

DATE : 15TH OCTOBER 2016

ORAL ORDER:

Applicants / accused in Crime No. 174/2016 registered with Udgir City Police Station, Taluka Udgir, District Latur, for offences punishable under Sections 498A, 306, 304B, 504, 506, read with Section 34 of the Indian Penal Code, by this application, are seeking pre-arrest bail.

2. Heard the learned Counsel appearing for applicants / accused. He took me through the FIR and argued that the contents of the FIR are false. The learned Counsel drew my attention to papers of medical treatment of the deceased and submitted that the deceased was being treated by her in-laws and her

husband. The learned Counsel also pointed out Medi-claim Policy of the deceased taken by her husband and argued that the marriage was settled knowing well that the deceased was suffering from some ailment. My attention was drawn to the photographs as well as text messages exchanged between the deceased and applicant no.1 / husband to show that married life of the deceased was going on smoothly. With this, the learned Counsel argued that prima facie there is no evidence to connect applicants to the crime in question entitling them for anticipatory bail.

3. The learned Addl. Public Prosecutor drew my attention to statements of neighbours Mayank Tiwari and Shantabai Bhanushali to show that the deceased was subjected to illtreatment by accused persons including applicants. The learned Addl. Public Prosecutor argued that matrimonial relatives of the deceased were demanding Rs. 15,00,000/- from her for grocery business. The learned Addl. Public Prosecutor drew my attention to the statement of Dr. Chetan Welani to show that the deceased was suffering from ailment. My attention was drawn to the fact that pregnancy of the deceased was terminated. With this, the learned Addl. Public Prosecutor submitted that even witnesses are also corroborating the version of the informant as well as his relatives.

4. The learned Counsel appearing for the

informant opposed the application and adopted the arguments advanced by the learned Addl. Public Prosecutor.

5. I have carefully considered the rival submissions and perused papers of investigation. Background facts are thus :-

On 06.03.2016, Manisha d/o. Gangaji Nakhuwa (since deceased) married applicant no.1 Dharmesh s/o. Ravi Bhanushali. On 29.07.2016, as per version of the informant - father, she was taken from her matrimonial house by her mother Savitri and uncle Arvind for rituals of *Shrawan* (*Shrawanmas*). After staying at Pune with her brother, deceased Manisha reached her parental house at Udgir on 14.08.2016. On 20.08.2016, she committed suicide by hanging herself in the house of her parents. She died due to cardio-respiratory arrest due to asphyxia due to hanging.

6. Version of the informant - father as well as matrimonial relatives of deceased Manisha is to the effect that Manisha got nice treatment at her matrimonial house for one month. Thereafter her husband, father-in-law and mother-in-law started demanding Rs. 15,00,000/- from her by saying that they have incurred loan and they want money for their grocery business. So far as cruel treatment is

concerned, allegations which can be culled out from the FIR as well as statements of witnesses are to the effect that Manisha (since deceased) used to get taunts from her matrimonial relatives to the effect that she does not know cooking. They used to ask her not to sleep in the bed room but to sleep in the hall with her husband. Matrimonial relatives of the deceased used to provide food late to deceased Manisha. They were not allowing her to make phone calls. It is also alleged that matrimonial relatives of Manisha were asking her to bring money by saying that lot of money is being spent on medical treatment of Manisha. They were abusing her and taunting her.

7. Sarita Kalani and Archana Ambegave, are friends of the deceased. They are also stating similar facts in their statements. Mayank Tiwari is neighbourer of deceased Manisha. He has stated that he heard applicant no.2 Nirmala Bhanushali telling Manisha that Manisha is suffering from ailment and further asking her whether her husband will spend money on treatment. Shantabai Bhanushali is another neighbourer. She has also disclosed similar facts about illtreatment to Manisha.

8. The FIR as well as statements of parental relatives of Manisha are categorically saying that Manisha was suffering from ailment which they described as ailment of calcium. Their version is to

the effect that this fact was disclosed to accused persons at the time of settlement of marriage of Manisha with applicant no.1 Dharmesh Bhanushali.

9. On this backdrop, documents annexed to the application contains photographs of Manisha at her matrimonial house with her husband i.e. applicant no.1 as well as her in-laws. Documents of text messages exchanged between Manisha and her husband applicant no.1 Dharmesh Bhanushali are also annexed to the application. Perusal of those photographs as well as text messages of Manisha to her husband prima facie shows that the couple was in deep love with each other. Some text messages are also of 12.08.2016 i.e. just few days prior to death of Manisha. In that text messages, Manisha had declared her love towards her husband i.e. applicant no.1 Dharmesh Bhanushali.

10. It seems that deceased Manisha was in habit of writing notes reflecting her married life. Those documents are also annexed to the present application. Those notes are stated to be written by deceased Manisha. A note titled as '*Our Life Journey*' allegedly written by Manisha shows development in the matrimonial life of deceased Manisha. These documents also shows intimate relationship between deceased Manisha and her husband i.e. applicant no.1 Dharmesh Bhanushali. Though

deceased Manisha had sent several text messages to her husband, in not a single text message she had made grievance about cruel treatment to her by her in-laws or her husband. Her hand written notes annexed to the application also does not depict any cruel treatment or demand of money from her parental relatives. Along with the application, voluminous documents reflecting medical treatment of Manisha are annexed. Those documents includes CT scan of brain of deceased Manisha taken on 23.06.2016. It shows that deceased Manisha was suffering from Fahr's disease. Symmetrical bilateral cerebral and cerebellar hemispheres of brain of Manisha were found calcified in her CT scan. Papers of medical treatment post marriage of deceased Manisha shows that she was on anti-epilepsy drugs for last about 8 - 9 years. After perusal of the CT scan, the attending Medical Officer also confirmed the fact that Manisha was suffering from Fahr's disease. It is seen that on medical advice, her pregnancy was terminated.

11. On this backdrop, one will have to prima facie examine whether suicide of deceased Manisha was as a result of cruel treatment given by accused persons on account of demand of dowry or whether it is an outcome of some other reason. The death of Manisha is occurring within about five months from her marriage and her written notes as well as

photographs for matrimonial life and text messages does not depict any cruelty or demand of money. In this context, if one peruses medical jurisprudence, then it is seen that abnormal deposit of calcium in areas of the brain of deceased Manisha resulted in causing Fahr's disease to her. Those areas of brain of the deceased were controlling her movements. Fahr's disease is a neurological disorder leading to deterioration of motor functions and speech. It results in causing seizures and other involuntary movements. Unsteady gait is one of the outcome of this disease. Fahr's disease leads to changes in personality and / or behaviour. Medical jurisprudence says that it causes dementia i.e. decline in memory, thinking skill, mental ability, etc. and interferes with daily life. This disease also causes psychosis which is a severe mental disorder in which thoughts and emotions are so impaired that contact is lost with external reality. If factual scenario emerging from the documentary evidence placed on record as well as from papers of investigation is considered in the context of undisputed position that the deceased was suffering from Fahr's disease since long, possibility of commission of suicide by the deceased because of sufferings due to Fahr's disease can also be there.

12. Even otherwise averments in the FIR and statements of parental relatives as well as

neighbourers are falling short of definition of the term '*cruelty*' as envisaged by Explanation to Section 498A of the IPC. It requires cruel treatment of certain persistence and intensity. In the case in hand, allegations *prima facie* discloses domestic cruelty rather than legal cruelty. Perusal of the FIR as well as statements of parental relatives of the deceased nowhere shows that at the time of marriage, accused persons had demanded any amount towards dowry. This is also a material circumstance.

13. In this view of the matter, I am of the opinion that considering the nature of evidence available against accused persons, liberty of applicants, who are husband, mother-in-law and unmarried sisters-in-law of the deceased, needs to be protected.

14. Hence, I pass the following order :-

(a) The Application is allowed.

(b) Applicants / accused in the above crime, in the event of their arrest, be released on bail on their executing P.R. Bond in the sum of Rs. 30,000/- each and on furnishing one or more solvent sureties of the like amount by each of them.

(c) As conditions of this order, applicants / accused

shall abide by the following directives :-

(i) Applicants shall attend the concerned Police Station on 19th October 2016 and 26th October 2016 in between 11.00 a.m. and 01.00 p.m. and they should cooperate the investigator in investigation of the crime in question.

(ii) 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.

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

(d) The Application stands disposed of in the above terms.

(**A.M. BADAR**)
JUDGE

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