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

CRIMINAL APPLICATION NO.6161 OF 2015

1. Pundlik s/o Karbhari Jadhav,
2. Vilas s/o Pundlik Jadhav,
3. Chandrakalabai w/o Pundlik Jadhav,
4. Swati w/o Sharad Nemane ..APPLICANTS

VERSUS

The State of Maharashtra ..RESPONDENT

Mr M.A. Latif, Advocate for applicants;
Mr U.S. Mote, Addl. Public Prosecutor for respondent no.1;
Mr S.D. Kotkar, Advocate to assist Addl. Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 11th January, 2016

ORDER :

By the present application, the applicants are seeking pre-arrest bail, in connection with C.R. No.I-23 of 2015, registered with Shrirampur Taluka police station, Dist. Ahmednagar, for offences punishable under sections 323, 504, 506, 306, 500 read with section 34 of the Indian Penal Code.

2. The incident is alleged to have taken place between 6th December, 2012 and 29th August, 2014, for which the first information report is lodged on 10th February, 2015.

3. The prosecution case, in brief, is as under :-

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Vithal and Narmada were blessed with two daughters, namely, Sonali and Vaishnavi. Sonali married to Ganesh, whereas Vaishnavi was un-married.

4. One Kundlik was having a daughter by name Swati, who was married to one Sharad. There are matrimonial differences between Swati and Sharad and as such, Sharad has initiated Hindu Marriage Petition No.24 of 2012 in the Civil Court at Vaijapur for divorce.

5. The case of the prosecution is that the complainant Narmada filed a complaint under section 156 (3) of the Code of Criminal Procedure before Judicial Magistrate First Class, Shrirampur, alleging that the present applicants have prepared a false story of marriage of Vaishnavi (daughter of complainant Narmada) with Sharad and as a consequence thereof, applicant no.1, time and again, used to give telephonic threats in filthy language to the complainant and her family members. In addition, it is alleged that the present applicants were instrumental in maligning the image of Vaishnavi in the society and school, which had prompted her to end her life on 1st September, 2014. The complainant has alleged that exposition of conduct of the present applicants in the above referred matter went unattended before the police authorities and as such, on 28th January, 2013 she lodged a complaint case on which the Court below called report under section 202 of the Code of Criminal Procedure. It is pursuant to the said report and investigation, the offence came to be registered against the

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present applicants.

6. Learned Counsel appearing on behalf of the applicants, while trying to make out a case for grant of pre-arrest bail, in the above referred background, would urge that applicant no.1 is a person who is aged about 65 years, whereas applicant no.2 is a person of unsound mind. According to him, applicant no.3 is the wife of applicant no.1 and mother of applicant no.2, whereas applicant no.4 Swati is the daughter of applicants no.1 and 3 and was married to Sharad. According to him, the death of Vaishnavi was on 1st September, 2014, whereas the offence has been registered on 10th February, 2015 and there is hardly any explanation coming forth for the undue delay caused. In addition, he would submit that at the behest of the applicants, an offence punishable under section 307 of the Indian Penal Code was already registered against one Ganesh (husband of Sonali), i.e. the son-in-law of the complainant Narmada and as such, so as to falsely implicate the applicants and also to get rid off C.R. No.23 of 2014, registered at the behest of applicant no.1, present false case came to be filed by Narmada against them. The applicants then would urge that their custodial interrogation is not necessary and as such, prayed for bail by relying upon the judgment of the Apex Court, in the matter of **Siddharam Satlingappa Mhetre vs. State of Maharashtra & ors.**, reported in **2011 (2) Mh.L.J. (Cri.) 16**.

7. Heard learned Addl. Public Prosecutor, who is assisted by the learned Counsel for the complainant. According to him, there is a *prima*

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facie case against applicants no.1 and 4. He would then invite attention of this Court to the investigation carried out till date and summary of events, which has prompted Vaishnavi to commit suicide. Learned Counsel appearing on behalf of the complainant who assisted the learned Addl. Public Prosecutor has invited my attention to the various documents so as to demonstrate that there is *prima facie* involvement of the applicants in commission of the crime in question and as such, application of applicants no.1 and 4 deserves to be rejected.

8. With the assistance of respective learned Counsel, I have perused entire investigation papers placed before me and the charge-sheet in C.R.No.I-23 of 2014 registered against Ganesh, the son-in-law of the complainant and there is hardly any role ascribed to him.

9. From the written statement filed in Hindu Marriage Petition No.24 of 2012, it could be noticed that applicant no.4 Swati in clear terms has stated that her husband Sharad married to Vaishnavi. Apart from above, applicant no.1 has registered the first information report resulting into registration of C.R. No.I-23 of 2014, in which he has in specific terms stated that his son-in-law Sharad has married to Vaishnavi. Learned Counsel appearing on behalf of the applicants, in the above background, was called upon to explain the basis for such statement made by applicant no.1 in first information report and applicant no.4 in the written statement filed in the Hindu Marriage Petition. Learned Counsel for the applicants, in response to the above query, would submit that the same is the matter of

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evidence and cannot be gone into at this stage. He then would urge that there is no documentary evidence or other evidence available in his custody to demonstrate the same.

10. So far as applicants no.2 and 3 are concerned, but for some vague allegations against them in the first information report, hardly anything could be noticed.

11. So far as allegations of giving threats on mobile phone are concerned, in the investigation it is brought to the notice of this Court that the CDR reports of the concerned mobile are not available. However, this Court cannot turn a blind eye to the baseless allegations made against applicants no.1 and 4. It is the case of the prosecution that because of baseless allegation of marriage of Vaishnavi with Sharad, the complainant has been prompted to take extreme steps as narrated in the first information report.

12. In my opinion, the fact remains that there is documentary evidence on record in the form of statements, i.e. the first information report in C.R. No.I-23 of 2014 registered with Shillegaon police station and the written statement filed by Swati in Hindu Marriage Petition No.24 of 2012. The act on the part of applicants no.1 and 4 of making baseless statements of marriage of Vaishnavi with Sharad has maligned her image in the society and created problems in settling her marriage, appears to be the case of the prosecution.

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13. In the above background, there is a strong *prima facie* case against applicants no.1 and 4. Apart from above, the delay in lodging the first information report is one of the issues which is sought to be canvassed, however, the fact remains that the Judicial Magistrate First Class has taken cognizance pursuant to the application under section 156 (3) of the Code of Criminal Procedure, as the police authorities have not looked into the complaints, time and again, made by them. As such, the ground of delay will hardly be of any assistance.

14. For the foregoing reasons, the present application, to the extent of applicants no.1 and 4 stands rejected.

15. So far as applicants no.2 and 3 are concerned, in my opinion, it will be appropriate to enlarge them on pre-arrest bail. Thus, the following order :-

In the event of arrest of the applicants no.2 and 3, namely, Vilas s/o Pundlik Jadhav and Chandrakalabai w/o Pundlik Jadhav, in connection with C.R. No.I-23 of 2015, registered with Shrirampur Taluka Police Station, Dist. Ahmednagar, for offences punishable under sections 323, 504, 506, 306, 500 read with section 34 of the Indian Penal Code, each of them be released on bail furnishing P.R. Bond of Rs. 15,000/- with one surety in the like amount.

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Criminal Application stands allowed in above terms.

The documents tendered by the learned Counsel appearing on behalf of the complainant are taken on record.

(N.W. SAMBRE, J.)

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