

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**ANTICIPATORY BAIL APPLICATION NO.830 OF 2016**

|                                  |   |                |
|----------------------------------|---|----------------|
| 1. Mrs. Sumanbai Ganesh Shewale, | ] |                |
| 2. Mr. Ganesh Gangaram Shewale.  | ] | ... Applicants |

Versus

|                       |   |                |
|-----------------------|---|----------------|
| State of Maharashtra. | ] | ... Respondent |
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Mr. Rohan Nahar I/b Mr. Praful Soni for Applicants.  
 Ms. Veera Shinde, APP for Respondent-State.

**CORAM :- A. M. BADAR, J.**  
**DATE :- JUNE 08, 2016**

**P. C. :-**

1. The applicants/accused in Crime No.115 of 2016 for the offences punishable under Sections 498A, 306, 323 and 504 read with 34 of IPC registered with Kondhwa Police Station, Pune, at the instance of Jeevan Harale (father of the deceased), by this application, are praying for pre-arrest bail.

2. The applicant no.1 is mother-in-law whereas the applicant no.2 is father-in-law of deceased Madhavi Sandeep Shewale. Deceased Madhavi married to Sandeep on 15/03/2014 and she set herself on fire at rented room of the couple at Kondhwa-Budruk, Pune.

3. Heard the learned Counsel for applicants. He argued that there are no allegations of abetment to the deceased by the applicants who were not residing with the deceased at the time of commission of suicide by her. He further argued that allegations of cruelty reflected in the F.I.R. are depicting domestic cruelty rather than legal cruelty, as defined in explanation to Section 498A of IPC. As against this, the learned APP argued that the offence alleged is serious and is having repercussions on the society.

4. It is seen from the F.I.R. that after marriage, Madhavi was subjected to cruelty by her husband Sandeep who used to assault her under the intoxication of liquor. So far as the present applicants are concerned, F.I.R. shows that they had demanded an amount of Rs.25,000/- from the parents of Madhavi in order to enable them to open a shop. The F.I.R. itself shows that 3 months prior to the incident, Madhavi and her husband Sandeep had left parental house in Yavatmal district and went to reside at Kondhwa-Budruk, Pune.

5. Averments in the F.I.R. does not reflect any provocation, incitement, encouragement or instigation by the applicants to deceased Madhavi who committed suicide. Abetment involves active complicity on the part of the abettor at a point of time prior to or at the time of commission of offence. *Prima-facie* element of *mens rea* is not reflected in the F.I.R., so far as the present applicants are concerned.

6. So far as the offence of cruelty is concerned, harsh and harmful conduct of certain intensity and persistence is required. In the case in hand, the vague averments are to the effect that the applicants have demanded Rs.25,000/- from the parents of Madhavi. Considering totality of the material against the present applicants, I am of the opinion that custodial interrogation of the present applicants who are parents of the husband, is not at all warranted and therefore the order :-

**ORDER**

- i) The order dated 06/05/2016 granting anticipatory bail to the applicants is confirmed on the same terms and conditions.
- ii) In addition, the applicants are directed to attend Kondhwa Police Station on 18<sup>th</sup> and 19<sup>th</sup> June 2016 in between 11.00 a.m. and 2.00 p.m.
- iii) The application is disposed of accordingly.

**(A. M. BADAR, J.)**