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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1181 OF 2016

Mrs.Sunita Ajit Jadhav	..Applicant.
V/s.	
State of Maharashtra	..Respondent.

Mr.Priyal G.Sarda for the applicant.

Mrs.Veera Shinde, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 27TH JULY, 2016

P.C. :-

1. The applicant / accused in Crime No.199/2016 for offences punishable under 498A, 306 and 504 read with 34 of the Indian Penal Code registered with Barshi Police Station, District Solapur at the instance of informant Subhash Shivdas Mirgane is praying for pre-arrest bail.

2. Heard the learned counsel appearing for the applicant. By drawing my attention to the F.I.R., the learned counsel argued that even if the contents of the F.I.R. are accepted as it is, then also, no element of abetment is

reflected therefrom.

3. The learned APP opposed the application and submitted that there are statements of witnesses, who are disclosing the treatment meted out to the deceased by present applicant.

4. Perused the papers of investigation including the F.I.R. lodged by Subhash Mirgane. Deceased Jyoti was his daughter. Husband of Jyoti died prior to two years. Thereafter, Jyoti started working as a cook in Deaf and Dumb School. Co-accused Ajit Jadhav is a teacher at that school. Present applicant is the wife of co-accused Ajit Jadhav. According to the prosecution case, the present applicant was suffering from ailment of heart. She was having two children. Because of ailment, she was unable to cope up with the household chores. Therefore, she along with co-accused Ajit gave proposal to Jyoti Mirgane (since deceased) and her parents that Jyoti should marry co-accused Ajit. Accordingly, with the consent of present applicant, Jyoti married co-accused Ajit on 19th November, 2015. Within a short span of 5 months in the company of accused persons, Jyoti indulged in

self effacement by hanging herself. She died on 21st May, 2016.

5. The question would be whether the applicant had abetted the commission of suicide by Jyoti. For establishing the charge of abetment, the prosecution is required to prove that there was instigation, provocation, incitement and encouragement by an accused to the deceased to commit suicide. Some active suggestion and stimulation is required to be shown. Section 107 of the Indian Penal Code requires *mens rea*. Without knowledge and intention there cannot be an abetment.

6. Keeping in mind the ingredient of the offence of abetment, let us examine the averment in the F.I.R. as well as averments from statements of witnesses. The informant who is the father of the deceased has stated that he heard narration of ill-treatment given to her from Jyoti during her lifetime. The F.I.R. reveals that the present applicant, after marriage of Jyoti with Ajit had recovered from her ailment. Thereafter, the present applicant was not allowing Jyoti to do the household work. Jyoti was not allowed to cook food. The

present applicant, as alleged in the F.I.R. was speaking dirty with Jyoti and she was asking Jyoti to leave the house as her presence, according to the applicant, was no more required. Similar are the averments reflected from statements of witnesses.

7. Prima facie, it is seen that present applicant was the cause and the reason for Jyoti to commit suicide. However, that by itself will not prima facie reflect abetment. The material on record prima facie do not show or reflect any stimulation or instigation with the requisite knowledge and intention.

8. Considering the nature of evidence against the present applicant, her custodial interrogation is not warranted and her liberty needs to be protected. Hence the order :-

- (i) The application is allowed;
- (ii) In the event of arrest, the applicant / accused in Crime No.199/2016 for offences punishable under 498A, 306 and 504 read with 34 of the Indian Penal Code registered

with Barshi Police Station, District Solapur, be released on bail on her executing P.R. bond in the sum of Rs.10,000/- with one or more surety in the like amount;

- (iii) The applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him / her from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;
- (iv) The applicant / accused shall co-operate for expeditious disposal of the trial;
- (v) The applicant / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;
- (vi) The application is disposed of accordingly.

(A.M.BADAR, J.)