

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2264 OF 2016

1. Pinku @ Manisha Bhagwan BaladheApplicants
2. Bhagwan Bhanudas Baladhe

V/s.

The State of MaharashtraRespondent

Mr. Satyavrat Joshi i/b Mr. Pandurang G. Shivalkar Advocate for Applicant.
Mr. S. H. Yadav APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 13th DECEMBER, 2016.

PC :

1) Heard. This is an application under section 439 of Code of Criminal Procedure, 1973. Applicants herein are arrested on 22/02/2016 in crime no. 74 of 2016 registered at Indapur Police Station. Investigation is completed and charge-sheet is filed on 17/05/2016 and the applicants are charge-sheeted for offence punishable under sections 498 (A), 302, 326, 323, 504 and 506 of the Indian Penal Code. The case is committed to the Court of Sessions and is registered as Sessions Case No. 117 of 2016.

2) It is the case of the prosecution that brother of applicant no. 1 Kumar

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Admane was married to Ashwini 7 years prior to 19/02/2016. On 19/02/2016, father of Ashwini namely Tukaram Ghodke lodged a report at the police station alleging therein that Ashwini was being harassed and ill-treated by her husband and in-laws. That Ashwini had not conceived pregnancy and that her father-in-law namely Baban Admane was soliciting sexual favours from her and threatening her of dire consequences. That Ashwini had filed a complaint before the Chief Judicial Magistrate at Osmanabad under section 12 of the Protection of Women from Domestic Violence Act, 2015 against her husband, father-in-law and mother-in-law which was registered as Misc. Application No. 290 of 2011. That in the year 2013, Ashwini had also filed a complaint under section 125 of the Code of Criminal Procedure, 1973 against her husband, father-in-law and mother-in-law which was registered as Misc. Application No. 103 of 2013. The said cases were compromised and the in-laws had given an undertaking before the Court that Ashwini would not be harassed anymore and on that condition she had continued her co-habitation with her husband in her matrimonial house. Unfortunately, the harassment persisted and therefore, Ashwini was constrained to abandon her matrimonial house and to return to her maternal house. Thereafter, her husband had taken

her back on the ground that they would live separately.

3) On 16/02/2016, the landlord of Ashwini had informed her father Tukaram that there was a quarrel in the house of Ashwini and that she was assaulted with iron rods and has been admitted in Civil Hospital at Indapur. From the hospital at Indapur, she was referred to Sasoon Hospital at Pune. Ashwini had succumbed to injuries on 21/02/2016 and thereafter, section 302 of the Indian Penal Code was added. Initially, crime was registered for offence punishable under sections 326, 498 (A), 323, 504 & 506 of the Indian Penal Code.

4) Applicant no. 1 happens to be the sister-in-law of deceased Ashwini. She is the wife of applicant no. 2. Papers of investigation would show that applicants were residing in close proximity to the place where Ashwini was residing with her husband. The statements of eye witnesses would show that Ashwini was brutally assaulted by her husband and her father-in-law and that after the incident, present applicants had rushed to the spot and had taken Ashwini to Civil Hospital at Indapur. It appears from papers of investigation that applicant no. 1 had attempted to mislead the doctor by stating that Ashwini had sustained injuries in a quarrel. It appears from the records that

Ashwini was beaten to death by her husband, father-in-law and mother-in-law.

5) The learned counsel for the applicants rightly submits that being a married sister-in-law, applicant no. 1 did not interfere with the domestic affairs of Ashwini and Kumar. Ashwini had also filed an application under section 12 of the Protection of Women from Domestic Violence Act, 2005 wherein there is no allegation against present applicant no. 1. It is in view of this that applicants deserve to be enlarged on bail. Applicants shall not enter the jurisdiction of Taluka Indapur Police Station till the conclusion of trial as the applicants have given the address of their native place in the cause title, however, papers of investigation would show that they are residing in the locality of Kumar and Baban Admane.

6) The learned APP submits that applicants had deliberately made an attempt to mislead the Court, however, the learned counsel for the applicant, upon instructions submits that the address mentioned in the cause title before the Sessions Court was shown as Ambejogai which happens to be native place of applicant no. 2.

7) In the present case also, it needs to be recorded that the learned APP has

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fairly submitted that despite sending wireless messages, there is no co-operation from the investigating agency. In the present case, charge-sheet is filed and therefore, application is being considered on the basis of the compilation of the charge-sheet. However, it is made clear that observations made herein above are restricted to an application under section 439 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) Applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- each with one or more solvent sureties in the like amount.
- (iii) Applicants shall not enter the jurisdiction of Indapur Police Station.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)