IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPP) NO.337/2016
IN
CRIMINAL APPLICATION (ABA) NO.131/2016

Shri Alop S/o Vasant Chaudhary and others
..Versus..
The State of Maharashtra, through its Police Station Officer, Police Station Jaripatka, Nagpur

Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders

CORAM : Z.A. HAQ, J.
DATE : 3.5.2016

Heard Shri S.S. Dhengale, advocate for the complainant, Shri P.A. Abhyankar, advocate for the applicants and Shri N.S. Khubalkar, A.P.P. for the non-applicant.

For the reasons stated in the application, the complainant is permitted to assist the prosecution. The application is **allowed**.

CRIMINAL APPLICATION (ABA) NO.131/2016

Heard.

The applicants apprehend arrest in crime registered against them for the offences punishable under Sections 306, 498-A and 34 of the Indian Penal Code.

The crime is registered on the complaint filed by Sachin (brother of deceased) that deceased Ekta committed suicide because of the mental and physical torture meted out to her by the applicants. The applicant no.1 is the husband of deceased Ekta,

the applicant no.2 is father of applicant no.1 (father-in-law of deceased Ekta), applicant no.3 is mother of applicant no.1 (mother-in-law of deceased Ekta), applicant nos.4 and 6 are elder and younger brother of applicant no.1 and applicant no.5 is wife of applicant no.4.

The application is opposed on the ground that there is sufficient material to show that the applicants had been torturing deceased Ekta. It is submitted that the Investigating Agency has collected the call details which show that deceased Ekta had called Ankush (husband of Ekta's sister) on 21st February, 2016, had called Deepali (sister of deceased Ekta) and Lata (mother of deceased Ekta) on 22nd February, 2016 and had called Sachin (brother of deceased Ekta) and Krupali (wife of Sachin) on 23rd February, 2016 and had complained about ill-treatment and torture by the applicants. It is submitted that the incident has taken place in the matrimonial house within one year and three months of the marriage.

The learned A.P.P. has relied on the judgment given in the case of *Samunder Singh V/s. State of Rajasthan and others* reported in **(1987)1 SCC 466** and has submitted that this Court should be loathe in considering the pre-arrest bail application in the matter of the present type.

The applicant no.1 is serving in Indian Army and is presently posted at Allahabad. At the time of incident also the applicant no.1 was at Allahabad and not at Nagpur. The applicant no.2 (father of the applicant no.1) is also an Ex-Army Officer and after retirement, has taken up job as Security Officer with Manganese Ore India Limited, a Government of India Undertaking. The applicant no.4

(elder brother of applicant no.1) is serving in Indian Army and is posted at Delhi. At the time of incident, the applicant no.4 was at Delhi and not at Nagpur. The applicant no.6 (younger brother of applicant no.1) is in private service.

Shri Abhyankar, advocate for the applicants has relied on the judgment given in the case of *Gurbaksh Singh Sibbia etc. V/s. The State of Punjab* reported in **AIR 1980 SC 1632(1)** and has submitted that while considering the application for pre-arrest bail, the High Court or the Court of Sessions has to apply its mind to the questions raised and to decide whether a case is made out for grant of pre-arrest bail.

I have seen the statements of Sachin, Deepali and Lata produced by the learned A.P.P. at the time of hearing.

In the judgment given in the case of *Samunder Singh V/s. State of Rajasthan and others* (cited supra) the Hon'ble Supreme Court has cautioned that while considering the application for grant of pre-arrest bail in relation to an offence of dowry death the High Court is not under compulsion to exercise its jurisdiction to grant pre-arrest bail.

Though the judgment given in the case of *Gurbaksh Singh Sibbia etc. V/s. The State of Punjab* (cited supra) is not in relation to an offence relating to dowry death, the principles enunciated in it are required to be kept in mind while considering the application for grant of pre-arrest bail.

Considering the background and social status of the applicants, the nature of accusations against the applicants and the fact that the non-applicant has not been able to show that the custodial interrogation of applicants is necessary for further

investigation, in my view, the applicants are entitled for the pre-arrest bail.

Hence, the following order:

(i) In the event of arrest in Crime No.103/2016 registered by the non-applicant, the applicants be released on bail on furnishing P.R. bond for Rs.25,000/- (Rs. Twenty Five Thousand Only) each and one solvent surety in the like amount for each of the applicant.

(ii) The applicant no.6 shall deposit his passport with the Investigating Officer within one week.

If the Passport Authority has not issued passport in the name of applicant no.6, the applicant no.2 - Vasant Shankarrao Chaudhary and applicant no.6 - Anup Vasant Chaudhary shall submit an affidavit to that effect to the Investigating Officer within one week.

(iii) The application is **allowed** in the above terms.

CRIMINAL APPLICATION (APPP) NOS.302/2016 & 303/2016

In view of disposal of main application, these applications do not survive and are **disposed** accordingly.

JUDGE

Tambaskar.