

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

CRIMINAL APPLICATION NO.7111 OF 2016

Parubai w/o Balasaheb Chapke ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Shri S.S. Rathi, Advocate for the applicant
Shri S.M. Ganachari, A.P.P. for respondent/ State
.....

WITH

CRIMINAL APPLICATION NO.22 OF 2017 IN
CRIMINAL APPLICATION NO.7111 OF 2016

Ramrao s/o Gyanbarao Magar ... APPLICANT

VERSUS

The State of Maharashtra & anr. ... RESPONDENTS

.....
Shri B.N. Magar, Advocate for applicant
Shri S.M. Ganachari, A.P.P. for respondent No.1/ State
Shri S.S. Rathi, Advocate for respondent No.2
.....

CORAM: N.W. SAMBRE, J.

DATED: 6th January, 2017.

ORAL ORDER :

1. Heard. This is an application seeking pre-arrest bail

in connection with Crime No.240/2016 registered at Purna Police Station for the offences punishable under Sections 498-A, 304(B), 306 read with Section 34 of the Indian Penal Code.

2. The alleged incident is dated 13/11/2016, for which the F.I.R. came to be lodged on 14/11/2016. One Ramrao alleged that, his daughter Sonali was married to the son of the present applicant on 11/3/2012.

3. After the marriage, the present applicant, her mother-in-law, along with her son and other members, ill-treated her for non-complying with the demand of dowry. As such, said Sonali committed suicide, resulting into registration of crime in question.

4. The application is opposed on the ground that the death took place within a period of four years from the date of the marriage and the F.I.R. narrates of specific instances where the present applicant is claimed to have committed and directly involved in the crime in question. It is also claimed that, the custodial interrogation of the applicant is necessary so as to have proper investigation of the matter.

5. The perusal of the available material on the record depicts that the applicant, aged about 65 years, is mother-in-law and the role attributed to her in the commission of crime is illegal

demand and non-compliance thereof.

6. So far as the claim of the prosecution that the present applicant has abetted the crime punishable under Section 306 is concerned, and the provisions of Section 113-B of the Evidence Act, which provides for a presumption of dowry death, it is required to be observed that, such presumption is rebuttable. The husband of the deceased Sonali is already in custody and is subjected to interrogation. There is hardly any material on the record which prompts for custodial interrogation of the aged lady like the present applicant. In view thereof, having regard to the ingredients of Section 306 are not satisfied as there is no material to infer that the act of the applicant to abet the suicide of the deceased, the applicant entitled to be released on anticipatory bail.

7. The application is allowed. In the event of arrest of the applicant in connection with Crime No.240/2016 registered at Purna Police Station for the offences punishable under Sections 498-A, 304(B), 306 read with Section 34 of the Indian Penal Code, the applicant shall be released on bail on executing P.R. bond of Rs.25,000/- (Rupees twenty five thousand) with one or two sureties in the like amount. The applicant shall attend the investigating officer on 18th and 19th January 2017 between 11.00 a.m. to 1.00 p.m. and thereafter as per directions of the

investigating officer. The applicant shall not influence the witnesses or tamper with the evidence.

8. The observations made in this order are prima facie.

9. In view of disposal of Criminal Application No.7111/2016, Criminal Application No.22/2017 does not survive and same stands disposed of.

(N.W. SAMBRE, J.)

fmp/cr7111.16