

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

CRIMINAL APPLICATION NO.327 OF 2017

1. Kum. Pallavi Baliram Gavhane,
Age 22 years, Occu. Service/
Education
 2. Nanda w/o Baliram s/o Gavhane,
Age 45 years, Occu. Household
- Both r/o Bhushan Nagar, Kedgaon
Ahmednagar, Dist. Ahmednagar .. Applicants

Versus

- . The State of Maharashtra,
through Police Inspector,
Kotwali Police Station,
Ahmednagar, Dist. Ahmednagar .. Respondent

Mr R.R. Karpe, Advocate for applicants
Mr S.M. Ganachari, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 8th February 2017

PER COURT

1. In C.R. No.I-414/2016, registered on 17th December 2016, at Kotwali Police Station, District Ahmednagar, for the offences punishable under Sections 306, 498-A read with Section 34 of the Indian Penal Code, the applicants sister-in-law and mother-in-law of deceased Aishwarya are seeking pre-arrest bail.

2. Deceased Aishwarya got married to brother of applicant no.1 on 24th July 2016 and committed suicide on 16th December 2016, as such she died within a period of five months from the date of the marriage.

3. Learned Counsel for the applicants would urge that there is hardly any material on record to infer prima facie involvement of the applicants in the crime in question. It is then claimed that both the applicants are female and are very much available for investigation and shall co-operate. It is then claimed that applicant no.1 is a working woman and looking to the place of her service, there was hardly any time of her disposal to interact with the deceased, much less practice cruelty as alleged.

4. Per contra, learned Addl. Public Prosecutor opposed the application while inviting attention of this Court to the provisions of Section 113-B of the Evidence Act, that the death is within five months from the date of marriage. Learned Addl. Public Prosecutor then would urge that the custodial interrogation is must for the purpose of investigation.

5. Upon considering the rival submissions, it is to be noted that the presumption under Section 113-B of the Evidence Act is rebuttable. So far as applicant no.1 sister-in-law and applicant no.2 – mother-in-law are concerned, immediately after the alleged incident dated 16th December 2012, the first information report came to be lodged on 17th December 2012. Perusal of the first information report depicts that the victim Aishwarya was subjected to cruelty. A vague statement is made in the first information report but for not supplication in the form of specific attribution against the applicants qua the nature of cruelty. There are specific attributions against the son of applicant no.2, who is informed to have been arrested on 18th December 2016.

6. Having regard to the fact that the necessary ingredients for an offence punishable under Section 306 of the Indian Penal Code are not prima facie satisfied and what has been observed in the backdrop of above, in my opinion, it will be appropriate to allow present application.

7. As such, Criminal Application stands allowed.

8. In the event of their arrest in C.R. No.I-414/2016, registered on 17th December 2016, at Kotwali Police Station, District Ahmednagar, for the offences punishable under Sections 306, 498-A read with Section 34 of the Indian Penal Code, the applicants be released on bail upon furnishing each of them P.R. bond of Rs.15,000/- with one or two sureties in the like amount.

9. The applicants shall attend the concerned Investigating Officer on 14th and 15th February 2017 between 10.00 a.m. and 12.00 noon and thereafter as and when called for.

10. The applicants shall not influence the prosecution witnesses and shall not tamper with the prosecution evidence.

(N.W. SAMBRE, J.)

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