

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

13 CRIMINAL APPLICATION NO. 1629 OF 2017

REKHA D/O. PUNJARAM BORDE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

Shri. S.S. Ladda, Advocate, for applicants.
Shri. R.V. Dasalkar, Additional Public Prosecutor, for
respondent.

Coram: T.V. NALAWADE, J.

Date: 17 April 2017

ORDER:

1) The application is filed for relief of anticipatory bail. Both the sides are heard. Papers of investigation were made available by the learned Additional Public Prosecutor for perusal.

2) The crime is registered for offences punishable under sections 302, 307 etc. read with section 34 of the Indian Penal Code on the basis of dying declaration of Jyoti Nitin Borde. Applicant No.2 - Tanhabai is the mother of husband of the deceased. Applicant No.1 is the sister of Nitin and applicant No.3 is also the sister of Nitin. Allegation is made that applicant Nos.1 and 2 were living

in the same house where the deceased was living with her husband and applicant No.3 Jyoti who is given in marriage to a person from Chalisgaon had come to the house and she was present in the house on the date of the incident.

3) The marriage of the deceased took place about 10 years back. She has contended that on 5-2-2017 after 9.00 p.m. when one relative Pankaj had come to their house there was quarrel and during quarrel her father-in-law and husband had given abuses to her. She has contended that due to this quarrel her relative Pankaj left the house. She disclosed that on 6-2-2017 when she was present in the house at about 10.30 p.m. again quarrel was picked up with her by her husband and the present applicants. She disclosed that during quarrel, her husband Nitin, his brother Sachin took kerosene from stove and poured it on her person and set fire to her. She has disclosed that at that time all the three applicants were present in the house. She succumbed to the burns on 7-2-2017.

4) The papers of investigation include statements of the neighbours. In no statement it is mentioned that

they had seen applicant No.3 Jyoti Rahul Wagh in the house of the deceased on that date or even on the previous day. Thus there is only dying declaration of aforesaid nature against applicant No.3. The submissions made and the record show that applicant No.3 has breast feeding child of one month. In view of these circumstances interim protection is granted to her by this Court. In view of record of investigation this Court holds that relief of anticipatory bail needs to be granted to her.

5) When this Court expressed that this Court is not inclined to grant relief of anticipatory bail to applicant No.1-Rekha and applicant No.2-Tanhabai, the learned counsel for these applicants, on instructions, submits that he wants to withdraw the application of these two applicants. So, their application stands disposed of as withdrawn.

6) The application of applicant No.3 - Jyoti Rahul Wagh is allowed. Interim protection granted to her is hereby confirmed.

Sd/-
(T.V. NALAWADE, J.)

rsl