

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

CRIMINAL APPLICAITON NO. 5914 of 2017.

1. Kalavati Bramhadeo Tambe,
Age 67 yers, Occ. Household,
R/o. Deolali, Tq. Bhoom,
Dist. Osmanabad.
2. Kesharbai Shrimant Tambe,
Age 69 years, Occ. Household,
R/o. Deolali, Tq. Bhoom, Dist.
Osmanabad. ... Applicants.

VERSUS.

The State of Maharashtra,
Through Police Station Paranda,
District Osmanabad. ... Respondent.

...

Advocate for the Applicants : Mr. B.A. Dhengle.
APP for Respondent/State : Mr. A.S. Shinde.

CORAM : V.L. ACHLIYA, J.

DATE : 17th November, 2017

ORAL ORDER:

1. The applicants have moved this application seeking anticipatory bail on apprehension of arrest in connection with crime No. 165/2017 registered at Paranda Police Station, District Osmanabad, for

offences punishable under sections 498-A, 306 read with section 34 of the Indian Penal Code.

2. Heard learned counsel appearing for the applicants and learned A.P.P. for the State. Perused the first information report as well as the order passed by the Sessions Court.

3. Learned Counsel for the applicants contended that the applicants are old aged women. The applicant no. 1 is mother-in-law of the deceased. The applicant No. 2 is the sister of the applicant No. 1. By referring the first information report, the learned counsel pointed out that the allegations made in the FIR are general and vague in nature and no way sufficient to attract the offence under section 498-A as well as section 306 of the Indian Penal Code as against the applicant.

4. It is contended that, the deceased was admitted in the hospital in burn condition. She was declared dead on 27.5.2017. While the deceased being taken to the hospital, information was given to the husband of the informant. After the death of the deceased no one including the informant and her other family members made any grievance in respect of death of the deceased.

After the deceased was declared dead, A.D. was registered. During the course of inquiry in to cause of death of deceased, the inquiry was made with the informant and other relatives of the deceased. No one has made grievance against the applicants as well as other members of the family. After the period of more than four months after the incident the informant i.e. mother of the deceased lodged complaint alleging illtreatment and harassment to deceased by the accused persons. On the basis of complaint lodged by informant the applicants apprehend that they may be arrested, humiliated and harassed for no offence committed on their part.

5. On the other hand the learned APP submits that the informant has gave explanation as to delay in lodging complaint and stated that as due to demise of her daughter, the informant was not in a proper state of mind, the complaint could not be lodged immediately after the incident. The complaint was lodged after she recovered from the shock, caused due to death of the deceased. They have fairly conceded that immediately after the death, the A.D. was registered and during the course of inquiry the statements of informant and other persons were recorded and during recording of their

statements none of them raised suspicion as to the death of the deceased.

6. On due consideration of the submissions advanced in the light of overall evidence, facts of the case, nature of offence, four months delay in lodging complaint and during the course of inquiry, conducted as to cause of death of deceased, the informant and other relatives of the deceased have not expressed suspension against the applicants, I am of the view that prima-facie case is made out to entertain the application and extend the protection under section 438 of the Code of Criminal Procedure. Grant of anticipatory bail would not hamper on going investigation. I am therefore inclined to allow the application with certain conditions. Hence, following order is passed.

ORDER

1. Application is allowed.

2. In the event of arrest of the applicants in connection with Crime No. 165/2017 registered at Paranda Police Station, District Osmanabad, for offences punishable under sections 498-A, 306 read with section 34, the applicants be released on each of them

furnishing bail in the sum of Rs. 25,000/- with one surety in the like amount, on following conditions.

- (i) Applicant shall attend police Station Paranda, District Osmanabad, from 22.11.2017 onwards till 25.11.2017 in between 11 a.m. to 2 p.m. After 25.11.2017 the applicants shall make available themselves for investigation as and when directed by the investigating officer.
- (ii) The applicants shall not indulge into any act amounting to tampering with prosecution witnesses.

7. Criminal application stands disposed of in above terms.

(V.L. ACHLIYA, J.)

mkd/-