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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1764 OF 2017

1.	Rubina Irshad Khan	
2.	Irshad Ashfaq Khan	
3.	Sufina Mustaq Shaikh	
4.	Mustaq Abdul Rahim Shaikh	...Applicants
	Versus	
	The State of Maharashtra	...Respondent

**WITH
CRIMINAL BAIL APPLICATION NO.1763 OF 2017**

1.	Jannatul Kayyum Khan	
2.	Nagina Kayyum Khan	...Applicants
	Versus	
	The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO.795 OF 2017
IN
CRIMINAL BAIL APPLICATION NO.1763 OF 2017**

Liyakat Khairat Hussain	...Intervener (Original Complainant)
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IN THE MATTER BETWEEN

1.	Jannatul Kayyum Khan	
2.	Nagina Kayyum Khan	...Applicants
	Versus	
	The State of Maharashtra	...Respondent

Mr.P.N.Patil i/b Mr.L.S.Deshmukh, for the Applicants in both the Applications.

Mr.Mohd. Saeed A. Moghul, for the Intervener/Original Complainant.

Ms.J.S.Lohakare, A.P.P for the Respondent-State.

PSI – E.B.Auti, Kandivali Police Station.

CORAM : REVATI MOHITE DERE, J.

DATE : 23rd AUGUST, 2017

P.C. :

1. Heard learned counsel for the parties.
2. By these applications, the Applicants seek their enlargement on bail in connection with C.R.No.105 of 2017 registered with the Kandivali Police Station, for the alleged offences punishable under Sections 498(A), 306, 304(B) r/w 34 of the Indian Penal Code.
3. The applicants in Criminal Bail Application No.1764 of 2017 are as under:-

The applicant no.1 is the sister-in-law of the deceased, applicant no.2 is the husband of the applicant no.1 and brother-in-law of the

deceased, the applicant no.3 is the sister-in-law of the deceased and applicant no.4 is the husband of the applicant no.3 and brother-in-law of the deceased.

4. The applicants in Criminal Bail Application No.1763 of 2017 are as under:-

The applicant no.1 is the mother-in-law of the deceased, applicant no.2 is the unmarried sister-in-law of the deceased, aged 22 years.

5. Learned Counsel for the applicants submitted that the entire family has been falsely implicated in the said case. He submitted that the allegations as against the applicants are general in nature. He submitted that the applicants are in custody since 19th April, 2017 and that investigation is complete and charge-sheet is filed. He further submitted that the deceased – Kulsum consumed rat poison, pursuant to which, she was taken to Sneha General Nursing Home and thereafter as her condition deteriorated, she was taken to Phoenix Hospital by the co-accused – Naeem (husband of deceased) and thereafter, to Kokilaben Dhirubhai Ambani Hospital. He submitted that deceased - Kulsum had herself given history of consumption

of rat poison to the doctor at Sneha General Nursing Home.

6. Learned APP opposed the applications.

7. Learned Counsel for the Original Complainant/Intervener also opposed the applications. He submitted that the complainant's FIR was not properly recorded by the police, pursuant to which, the complainant made a representation to the Commissioner of Police on 7th April, 2017. He further submitted that the certificate issued by the Sneha General Nursing Home shows that deceased - Kulsum was taken against medical advice and had she been kept in the hospital and treated, deceased - Kulsum would have survived. He submitted that all the applicants are responsible for the death of Kulsum, as all the applicants were residing in the same house in which deceased - Kulsum and her husband – Naeem were staying.

8. Perused the papers. *Prima facie*, it appears that all the applicants were residing in the same house in which deceased – Kulsum and her husband – Naeem was staying. Naeem and deceased - Kulsum were married on 11th May, 2014 and that there is one son, aged 2 years, from the

said wedlock. It is alleged by the complainant – Liyakat Hussain (father of Kulsum), in his complaint/FIR dated 31st March, 2017, that deceased - Kulsum had informed him that the applicants were harassing her for dowry and were abusing her on account of the same. He has stated that on 25th March, 2017, at around 11.00 a.m., his wife had called Naeem on his mobile and that Naeem had informed her that Kulsum's health was not good and that she had gone for treatment. He has alleged that after some time Naeem again called them and they spoke to Kulsum, who informed, that she was feeling drowsy and that her legs were paining. According to the complainant, on 26th March, 2017, the father-in-law of Kulsum called on his wife's mobile and informed, that Kulsum wanted to go to her uncle's place at Malad and that she was brought back. He has further alleged that Naeem again called on the mobile and informed, that they should convince Kulsum that she should not go anywhere for 2 to 3 days, as their son – Fayeem was arrested by the police in another case, and that the entire family was busy in trying to get him released. He has further alleged that Naeem also asked them to convince Kulsum, pursuant to which, the complainant called up Kulsum and explained to her that she should not leave the house for 2 to 3 days. He has further alleged that on 30th March,

2017, Naeem had again called and informed, that Kulsum had consumed something and hence was admitted to a hospital. Pursuant thereto, the complainant and his family came from Lucknow to Mumbai on 31st March, 2017. He has stated that before his arrival, he was informed by Naeem, that Kulsum had expired. According to the complainant, because of the demand for dowry Kulsum had consumed poison and committed suicide. It appears that subsequently, the complainant had lodged a complaint with the Commissioner of Police, alleging that his statement/FIR was not properly recorded by the police. He has alleged in the said complaint that his daughter was being assaulted and harassed for non-fulfillment of dowry. A perusal of Column No.17 of the postmortem report shows, that no external injuries were found on the deceased. The cause of death could not be opined as the Viscera was sent for examination. A perusal of the medical reports of the deceased shows that Kulsum was taken to Sneha General Nursing Home on 25th March, 2017 at about 7.30 p.m., where she gave history of “ingestion of T Libotryp D and Raton Tube around 2/12 hrs back.” On examination it was found that Kulsum was fully conscious; that there were no external injuries; that she was drowsy; that she was responding to oral commands; that she was well oriented in time and space;

that she came walking; that she was moving all her extremities etc. The said certificate is at page 104 of the applications. It appears that Kulsum was admitted and IV fluids were administered and a Gastric wash, was given. It is also mentioned in the said certificate that the patient's relatives were advised to intimate the police about the same, however, later, they took Kulsum against medical advice. It appears that thereafter co-accused – Naeem took Kulsum to Phoenix Hospital on 30th March, 2017. Considering the condition of the deceased – Kulsum, Naeem took her to Kokilaben Dhirubhai Ambani Hospital for treatment, where she expired during the course of the treatment. Although, according to the complainant, the applicants administered poison to deceased – Kulsum, the certificate issued by Sneha General Nursing Home, *prima facie* shows otherwise. The allegations as against all the applicants are that they were demanding dowry and were ill-treating Kulsum. Investigation is complete and charge-sheet is filed.

9. In the facts of the present case, further custody of the applicants is not required. Accordingly, the applications are allowed and the applicants are enlarged on bail on the following terms and conditions:-

ORDER

- i) The Applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- each, with one or two sureties in the like amount;
- ii) The Applicants shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. to 11:00 a.m., till framing of the charge;
- iii) The Applicants shall inform their latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;
- iv) The Applicants shall not contact/intimidate, the complainant, witnesses or any person concerned with the case;
- v) The Applicants shall not leave the country, without the permission of the trial Court ;

vi) The Applicants shall co-operate in the conduct of the trial.

10. The Applications are allowed and disposed of in above terms.

11. It is made clear, that the observations made herein are *prima facie* and are confined to these applications and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

12. In view of the aforesaid, the Intervention Application being Criminal Application No.795 of 2017 does not survive and the same is also disposed of.

13. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)