

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2210 OF 2017

Tushar Vishwanath Raul ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

WITH

ANTICIPATORY BAIL APPLICATION NO.1500 OF 2017

Trupti Dasharath Katkar ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.Sachin S. Punde, Advocate for the Applicants.

Ms.J.S.Lohokare, APP for the Respondent/State in BA/2210/2017

Ms.Anamika Malhotra, APP for the Respondent/State in BA/1500/2017.

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CORAM : A.M.BADAR J.

DATED : 1st NOVEMBER 2017.

P.C. :

1 Bail Application bearing No.2210 of 2017 is filed by accused No.1 Tushar Raul, who is husband, whereas Anticipatory Bail Application No.1500 of 2017 is filed by wanted accused Trupti Dasharath Katkar – a married sister of the applicant Tushar. Both of them are accused in Crime No.373 of 2017 registered with

Police Station Sakinaka for offences punishable under Sections 306, 498-A, 504, 506 read with Section 34 of the Indian Penal Code registered at the instance of Devji Gawade – father of deceased Savita Tushar Raul. The charge-sheet against applicant/accused No.1 Tushar Raul has already been filed.

2 Heard the learned Advocate appearing for the applicants. By taking me through the FIR lodged by Devji Gawade as well as statements of Sunil Gangarkar and Ajit Shigvan, who are husbands of sisters of deceased Savita, the learned Advocate for the applicants/accused argued that the entire evidence against the applicants comprises of so called cruelty in relation to household matters. The learned Advocate further argued that the suicide note is not implicating the applicants in the crime in question. It is further argued that applicant Trupti was not residing with the couple and she being a married woman was residing with her husband. She has one year old son to maintain and, therefore, her custodial interrogation is not warranted.

3 The learned Additional Public Prosecutor opposed the application by contending that within a period of 80 days from the marriage, Savita died suicidal death by hanging at her matrimonial house and, therefore, presumption needs to be invoked by inferring that her suicide is abetted by accused persons by subjecting her to cruelty and, therefore, they are not entitled for the reliefs claimed.

4 I have carefully considered the rival submissions and also perused the entire charge-sheet.

5 Savita Devji Gawade married applicant Tushar Raul on 19/04/2017 and then she started residing with him at his house. On 10/07/2017, Savita died suicidal death at the house of applicant Tushar by hanging herself. On 11/07/2017, Devji Gawade – father of deceased Savita lodged the FIR which resulted in registration of crime in question.

6 The FIR shows that even prior to and after her marriage, Savita (since deceased) was working in the Plastic Company at Marol, Sag Baug, Andheri (East), Mumbai. According to the First Informant, three or four days after her marriage, Savita came to her parental house and she was found under some mental tension. She disclosed her parents that both applicants are taunting her on household affairs. First Informant Devji further reported that subsequently, there was a meeting between the parties in July 2017 for removing the misunderstanding between the couple.

7 Witnesses Sunil and Ajit, who are husbands of sisters of deceased Savita are stating that deceased Savita had disclosed that applicant Tushar is seeking approval of his sister Trupti (applicant in Anticipatory Bail Application) prior to doing any work.

8 According to the prosecution case, a suicide note is recovered from the dead body. Deceased Savita in her dying declaration in the form of suicide note has stated that she has trouble in her matrimonial house and she has disclosed entire facts to her parental relatives. She further declared that Prashant Parab used to threaten her after consuming liquor.

9 This is the summary of entire accusations against all accused persons including present applicants i.e. husband and married sister of husband. They are sought to be charged for offences punishable under Sections 306 and 498-A of the Indian Penal Code. A presumption can be pressed in service if it is shown that death of a married woman occurs within seven years of her marriage and if she is subjected to cruelty by her husband or her in-laws. If in such cases, cruelty is established, then it can lead to inference in that appropriate case that suicide is abetted by the husband or accused persons.

10 What cruelty means is stated in Explanation to Section 498-A of the Indian Penal Code. Cruelty implies harsh and harmful conduct of certain intensity and persistence. It covers acts causing both physical and mental agony and torture. The concept of cruelty varies from person to person and place to place. Legal Cruelty defined by Explanation to Section 498-A of the Indian Penal Code postulates such a treatment as to cause reasonable

apprehension to the mind of wife that her living with in-laws and husband will be harmful and injurious to her life.

11 Considering the requirements of legal proof in respect of alleged offence vis-a-vis the averments against both the applicants found in the charge-sheet, I am of the considered opinion that further pre-trial detention of the applicant Tushar and custodial interrogation of his married sister Trupti is not warranted. The incidents as found in the charge-sheet are *prima facie* disclosing domestic cruelty rather than legal cruelty. Therefore, the Order :

- (i) Both applications are allowed.
- (ii) Applicant Tushar Vishwanath Raul – accused in Crime No.373 of 2017 for offences punishable under Sections 306, 498-A, 504, 506 read with Section 34 of the Indian Penal Code registered with Police Station Sakinaka, Mumbai be released on bail on his executing P.R. Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.
- (iii) In the event of arrest of applicant Trupti Dasharath Katkar in Crime No.373 of 2017 for offences punishable under Sections 306, 498-A, 504, 506 read with Section

34 of the Indian Penal Code registered with Police Station Sakinaka, Mumbai she shall be released on bail on her executing P.R. Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.

- (iv) The applicants shall not tamper with the prosecution evidence.
- (v) The applicants/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

(A.M.BADAR J.)