

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1684 OF 2017

1. Dhirendra Umashankar Sahu
2. Shalu Dhiraj Sahu ... **Applicants**

V/s.
The State of Maharashtra ... **Respondent**

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Mr.S.V. Marwadi i/b Rushit Thakkar, Advocate for the Applicants.
Mr.R.M.Pethe, APP for the Respondent/State.
PSI V.A.Saikar P.S. Thane.

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CORAM : A.M.BADAR J.

DATED : 1st NOVEMBER 2017.

P.C. : 1.

1. The learned advocate appearing for the applicant states that he is not pressing the application so far as the applicant No.1 Dhirendra Sahu is concerned. As such the application so far as applicant Dhirendra Sahu is concerned, is rejected.

2. The applicant Shalu Sahu is an accused in crime No. 454 of 2017 registered with Borivali police station, Mumbai for the

offence punishable under section 304-B r/w 34 of the Indian Penal Code at the instance of informant/father Ramkishor Sahu.

3. Heard the learned advocate appearing for the applicant. He argued that applicant Shalu married with co accused Dhiraj Sahu in the month of February 2017 and as per customs of the community she stayed with her in laws at Lucknow for a period of 6 months. Thereafter, she came to join company of her husband Dhiraj. It is further argued that applicant Shalu alongwith her husband i.e. co-accused Dhiraj were residing in a separate room which is at a distance of two lanes from the house of Niraj and his wife Arti(since deceased). It is further argued that allegations against the present applicant Shalu are prima facie not making out the case against her for the offence punishable under Section 304-B of the Indian Penal Code and therefore, her custodial interrogation is not warranted.

4. As against this, the learned APP submits that applicant- Shalu alongwith her husband was very much residing with Niraj

and his deceased wife Arti through out the day. The learned APP placed reliance on statement of witnesses in order to demonstrate that there is prima facie evidence against the applicant Shalu for the alleged offence.

5. For making out the offence punishable under Section 304-B of the Indian Penal Code, the prosecution has required to establish that the death of any woman was caused by burn or bodily injuries or had occurred otherwise that under normal circumstances, within 7 years of her marriage. It is also required to be established that the deceased was subjected to cruelty or harassment by her husband or his relatives and such harassment or cruelty was in connection with the demand of dowry and that too soon before the death of such married woman. Viewed from this requirement, it is seen that allegations against applicant Shalu are to the effect that co-accused Niraj, who is husband of deceased Arti was listening and giving importance to applicant Shalu. It is further averred in the First Information Report that Shalu used to give trouble to deceased Arti. Witness examined

by the investigator has stated that Shalu used to quarrel with Arti by asking her to bring money from her parents as early as possible. Some witnesses have stated that applicant Shalu alongwith her husband used to stay with Niraj and his deceased wife throughout the day.

6. Cruelty or harassment to a married woman for making out the offence punishable under Section 304-B of the Indian Penal Code is required to be of the standard as stated in the explanation to Section 498-A of the Indian Penal Code. Considering the nature of averments against the applicant Shalu Sahu, I am of the considered opinion that her custodial interrogation is not warranted and therefore, the following order.

ORDER

I) In the event of her arrest in Crime No. 454 of 2017 registered with Borivali police station, Mumbai for the offence punishable under section 304-B r/w 34 of the Indian Penal Code the applicant Shalu Sahu be released on bail on executing PR bond of Rs.15,000/- and on furnishing surety

in the like amount.

- II) As a condition of this order she should not tamper the evidence of the prosecution and shall not 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.
- III) The applicant to co-operate the investigators in investigation of the crime in question.
- IV) The application is disposed of accordingly.

(A.M.BADAR J.)