

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

ANTICIPATORY BAIL APPLICATION NO. 1619 OF 2018

1. Shri.Rehmain Ibrahim Shaikh
2. Shri. Yasin Rehman Shaikh ...Applicants

Versus

The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 1620 OF 2018**

1. Shri. Wasim Rehman Shaikh
2. Sou.Rukiya Rehman Shaikh ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr.Sachin Dhakephalkar a/w. Mr. Sanjay Gunjkar for the Applicants in both Applications.
Mrs. A.A.Takalkar, APP for the Respondent/State in both Applications.
Mr. Nikam, PSI, M.I.D.C. Police Station.

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**CORAM: PRAKASH D. NAIK, J.
DATED: AUGUST 23, 2018**

P.C. :

1. In these Applications, the applicants are apprehending arrest in connection with CR No. 329 of 2018 registered with M.I.D.C. Police Station for offences under Sections 498 (A) and 306 read

with 34 of the Indian Penal Code. The First Information Report (F.I.R.) was lodged on 16th July, 2018. The applicants preferred an application for anticipatory bail before the Sessions Court, which was rejected on 2nd August, 2018.

2. Criminal Anticipatory Bail Application No.1619 of 2018 is preferred by the father-in-law and brother-in-law of the deceased whereas Criminal Anticipatory Bail Application No. 1620 of 2018 is preferred by the husband and mother-in-law of the deceased.

3. The case of the prosecution is that the victim was being harassed by the accused as she could not beget child. She was abused and assaulted by the accused. On 14th July 2018, she committed suicide by hanging herself in the house. It is alleged that the victim was taunted by the accused.

4. The learned counsel for the applicants submitted that the alleged incident had occurred after about a period of 7 years after marriage. There was no previous complaint. The allegations are false and concocted. There are no independent witnesses. The victim have not lodged complaint prior to incident. It is further

submitted that the husband is suffering from sperm count deficiency and is not the victim. This fact was known to the victim and her family and they decided to adopt the child. The complainant, who is the mother of the victim, was interested in divorce between the victim and her husband. The allegations are vague. The applicants in Anticipatory Bail Application No. 1619 of 2018 are not attributed any overt act.

5. Learned APP submitted that the complainant has categorically stated that the victim was being harassed by the accused. She had no reason to commit suicide. She further submitted that the statements of the witnesses have corroborated version of the complainant. The statement of the aunt of the deceased was recorded on 3rd August, 2018 wherein she has stated that on account of harassment from her husband and mother-in-law, the victim had stayed with her for a period of about six months. She also pointed out the statement of another witness namely Viban Nabhilal Mulla, who is another aunt of the deceased whose statement was recorded on 15th August, 2018.

6. On perusal of the evidence, it is apparent that imputation of harassment was specifically attributed to the husband and mother-in-law, who are the applicants in Anticipatory Bail Application No.1620 of 2018. The statements of the witnesses who are related to the deceased also reflect that the husband used to consume liquor and harass the victim. The witnesses also stated that on account of harassment by mother-in-law, the victim had stayed with one of the witnesses for a period of about 4 months. Thus, there are statements which attribute overt act to the applicants in Anticipatory Bail Application No. 1620 of 2018. However, as far as, the father-in-law and brother-in-law of the deceased, there are vague allegations. There is one statement alleging that the brother-in-law used to taunt the victim. There is no other role attributed to the brother-in-law. As against the father-in-law, I do not find any specific allegation in the complaint against him. At this stage, the allegations attributed to the mother-in-law and the husband cannot be brushed aside. In the aforesaid circumstances, the case for grant of bail is made out in Anticipatory Bail Application No. 1619 of 2018. However, Anticipatory Bail Application No. 1620 of 2018 preferred by the husband and

mother-in-law deserves to be dismissed. Hence, I pass the following order :

ORDER

- i) Anticipatory Bail Application No. 1619 of 2018 is allowed.
- ii) In the event of arrest of the applicants in Anticipatory Bail Application No. 1619 of 2018 in connection with CR No. 329 of 2018 registered with M.I.D.C. Police Station for offences under Sections 498 (A) and 306 read with 34 of the Indian Penal Code, the said applicants shall be released on bail on furnishing PR Bond in the sum of Rs. 15,000/- each (Rupees Fifteen Thousand only) with one or two sureties in the like amount.
- iii) The applicants in Anticipatory Bail Application No. 1619 of 2018 are directed to report the M.I.D.C. Police Station once in a week on Saturday between 10.00 a.m. to 12.00 noon till filing of the chargesheet.

(iv) Anticipatory Bail Application No. 1619 of 2018 stands disposed of.

(v) Anticipatory Bail Application No. 1620 of 2018 is rejected.

7. At this stage, the learned counsel for the applicants submits that the applicants in Anticipatory Bail Application No. 1620 of 2018 will surrender before the police within a period of 72 hours. The statement is accepted.

(PRAKASH D. NAIK, J.)