

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

ANTICIPATORY BAIL APPLICATION NO. 2178 OF 2018

1. Ganesh Raju Vaikar

2. Hausaram Mariba Gonde

....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. Rahul S. Kate a/w. Mr. Rupesh S. Zade for the applicants.

Mr. S.R. Agarkar, APP for the State.

Mr. C.B. Berad, PSI, Baramati Taluka Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 23rd OCTOBER, 2018.

P.C.:

. This is an application for anticipatory bail under section 438 of Criminal Procedure Code, filed by the aforesaid applicants, apprehending their arrest in C.R.No.540/2018 registered with Baramati Police Station, District Pune for offences punishable under sections 498-A, 304(B), 323, 354, 504, 506 r/w. section 34 of the Indian Penal Code.

2. Heard Mr. Rahul S. Kate, learned counsel for the applicants and Mr. S.R. Agarkar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The records prima facie reveal that the applicant no.1 was married to Kajal Vaikar on 20/04/2018. She committed suicide on 30/06/2018. Savita Arun Gode, the mother of the deceased lodged the first information report on 04/10/2018 alleging that the applicant no.1 and his family members had subjected her daughter Kajal to mental and physical cruelty. She has also alleged that there was a demand for dowry. It is alleged that said Kajal had committed suicide because of the ill treatment meted out to her and also due to demand for dowry.

4. Though it is alleged that the applicant no.1 and his family members had demanded dowry and subjected said Kajal to physical and mental cruelty, in the statement recorded under section 174 of Criminal Procedure Code, the first informant as well as the other family members of the deceased had stated that Kajal had committed suicide in a fit of anger and they had no complaint against any one. These statements were recorded immediately after the incident.

5. The allegations of demand for dowry and cruelty were made for the first time in the FIR which was lodged about three months after the incident.

6. Be that as it may, the FIR also indicates that the husband and the in-laws of the deceased were not able to accept the modern outlook of the deceased. It is alleged that the applicant no.1 and his family members were not allowing the deceased to wear fashionable clothes. They were constantly taunting her and the deceased was not able to adjust to the conventional or orthodox mental set up of her husband and in-laws.

7. The aforesaid facts prima facie suggest that the deceased had committed suicide in a fit of anger and not due to the cruelty meted out to her. Having regard to the above facts, particularly the statements of the parents and other family members of the deceased, recorded under section 174 of Criminal Procedure Code, in my considered view, this case does not justify custodial interrogation. The applicants are the permanent residents of Baramati, Dist. Pune and there is no possibility of the applicants fleeing from justice. They have no criminal antecedents. They are ready and willing to co-operate with the investigation.

8. Considering the above facts and circumstances as well as the nature of allegations levelled against the applicants, in my considered

view, this is a fit case for pre arrest bail. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the applicants in C.R.No.540/2018 registered with Baramati Police Station, District Pune, they shall be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) each with one or two solvent sureties in the like amount, to the satisfaction of the Investigation Officer.

(b) The applicants shall report to the Investigation Officer for a period of four days from 29/10/2018 between 11:00 a.m. to 02:00 p.m. and further as and when required by the Investigation Officer for the purpose of interrogation/investigation.

(c) The applicants shall furnish their permanent and temporary address, if any, and their contact details to the Investigation Officer.

(d) The applicants shall not change their residential address without prior intimation to the Investigation Officer.

(e) The applicants shall not interfere with the witnesses in any manner and shall not tamper with the evidence.

(SMT. ANUJA PRABHUDESSAI, J.)