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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.208 OF 2019

1. Riyaz¹ Appaso Savnurkar,
 2. Sou. Tabsum Riyaz Savnurkar,
 3. Mustafa Riyaz Savnurkar ..Applicants.
V/s.
- The State of Maharashtra ..Respondent.

Mr.Kedar J.Patil for the applicants.

Mr.A.A.Palkar, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 23, 2019

P.C.:-

Learned counsel for the applicants volunteers to pay costs of Rs.1,000/- to Kirtikar Bar Library for non removal of office objections. Statement is accepted. The receipt of payment of costs be furnished to the Registry before issuing of the copy of this order to the applicants.

2. Heard learned counsel for the applicants and learned APP for the State.

3. Applicant No.1 is the father-in-law, Applicant No.2 is the mother-in-law and Applicant No.3 is the brother-in-law of deceased

1 Corrected pursuant to speaking to the minutes of the order dated 11/2/2019.

Alisha, who was married to accused No.1 Raees on September 27, 2018.

4. Alisha died on December 16, 2018 after having consumed poison.

5. Since the death was within a period of 7 years from the date of marriage and she has committed suicide, offence punishable under sections 306, 498(A) read with 34 of the Indian Penal Code vide crime No.193/2018 was registered with Shahapur police station, Ichalkaranji, District Kolhapur.

6. Learned counsel for the applicants submits that in an unfortunate incident of death of daughter-in-law, the son of applicant Nos.1 and 2 is already arrested. According to him, there are no satisfaction of ingredients of sections 306 and 498(A) of the Indian Penal Code as can be inferred from the contents of the F.I.R. He would then urge that since the bottle containing poison is already seized, the custodial interrogation of the applicants is not necessary. As such, he seeks pre-arrest bail for the applicants.

7. Relying on the provisions of section 113A and B of the Evidence Act, learned APP opposes grant of bail as according to him, there is a presumption of involvement of the applicants in the crime in question, particularly when death has occurred within three

months from the marriage and there are allegations of treating the victim with cruelty.

8. Considered the submissions.

9. After marriage on September 27, 2018, the victim went to her parent's house i.e. her father's place on October 1, 2018, she again came back after five days and again went back to her father's place in November, 2018. On December 10, 2018 victim Alisha went to her in-laws house and started residing there. From the contents of the F.I.R., it can be inferred that of the period of two and half months from the date of her marriage, victim Alisha stayed with her father for more than one month.

10. In the intervening period, son of applicant Nos.1 and 2 had taken her to the hospital for treatment.

11. The only allegation against the applicants in the F.I.R. is that they made grievance about improper gifts of clothes and utensils.

12. So far as overall allegations in the F.I.R. are concerned, it does not reflect any cruelty being practiced by the applicants on the victim. The act of the applicants cannot be said to have abetted the suicide of deceased Alisha.

13. Overall reading of the F.I.R. and other material does not

attract the ingredients of sections 306 and 498(A) of the Indian Penal Code.

14. The son of applicant Nos.1 and 2 i.e. the husband of deceased Alisha is already arrested and the bottle containing poison is seized from the spot. That being so, in my opinion, case for grant of pre-arrest bail is made out. Hence the order :-

- i) In the event of arrest in crime No.193/2018 for offence punishable under sections 306, 498(A) read with 34 of the Indian Penal Code registered with Shahapur police station, Ichalkaranji, District Kolhapur, the applicants be released on bail on their executing P.R. bond of Rs.25,000/- each with one or two sureties each in the like amount;
- ii) The applicants shall attend the Investigating officer on 1st, 5th, 8th and 11th February, 2019 between 10.00 a.m. to 12.00 noon and thereafter as and when directed;
- iii) The applicants shall not influence the prosecution witnesses or tamper with the evidence;
- iv) The applicants shall co-operate with the investigating agency;
- v) The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)