

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 332 OF 2019**

Praveen Shantaram Kelshikar & Anr.Applicants.
Vs.
The State of MaharashtraRespondent.

WITH**CRIMINAL APPLICATION NO. 270 OF 2019****IN****ANTICIPATORY BAIL APPLICATION NO. 332 OF 2019**

Sunita Dilip DevlekarApplicant

IN THE MATTER BETWEEN-

Praveen Shantaram Kelshikar & Anr.Applicants.
Vs.
The State of MaharashtraRespondent.

Mr. Omkar Mulekar for the Applicant.
Mr. Amit Palkar APP, for the Respondent-State.
Smt. Uttara Khaire I/by Saswati Deb for the Intervenor.

CORAM : A. S. GADKARI, J.
DATE : 13th MARCH, 2019.

P.C.:-

This is an Application under Section 438 of the Code of Criminal Procedure, 1973 for pre-arrest bail in C.R. No. 417 of 2018 dated 26th December, 2018 registered with Worli Police Station, Mumbai under Sections 498-A, 306 read with Section 34 of the Indian

Penal Code.

2 Heard the learned counsel for the Applicant, the learned counsel for the first informant and the learned APP. Perused the record of investigation.

3 The first information report is lodged by Smt. Sunita Devlekar, mother of Smt. Varsha Praveen Kelshikar (deceased).

It is the prosecution case that, the marriage of Smt. Varsha with the Applicant No.1 was solemnized on 13th December, 2006 at Mumbai. Out of their wedlock a son by name Sairaj aged about 10 years as of today, has begotten. That, the Applicants used to cause undue harassment and cruelty to Smt. Varsha and they were also forcing her to perform all the household work. It is the further allegation that, the Applicant No.1 used to take doubt on the fidelity of Smt. Varsha by alleging that, she was having extra marital affair with a boy. It is further alleged that, for the said aforesaid reasons and on the allegation that Smt. Varsha was having extra marital affair, the Applicant No.1 used to beat her.

In the premise, Smt. Varsha consumed rat poison on 16th December, 2018 and committed suicide.

4 The learned counsel for the Applicants submitted that, the Applicants never caused any harassment or cruelty to Smt. Varsha. He further submitted that, on certain occasions Smt. Varsha has admitted her relations with one boy and therefore, she had executed a document on stamp paper admitting her guilt. He submitted that, the Applicant never abetted Smt. Varsha to commit suicide. He, therefore, prayed that the Applicants may be protected by pre-arrest bail.

5 I have personally perused the record of investigation. During the course of investigation, the police have seized certain documents. There is a document on record allegedly executed by Smt. Varsha admitting her extra marital affair with another boy. The said document is signed by five witnesses.

 The investigation reveals that, the witness No.1 to the said document namely Shri Vijay Pandirkar is the scribe of the said document. Other two witnesses to the said document in their statements given to the police and have stated that Smt. Varsha never signed the document in their presence.

 The learned APP, on instructions, submitted that the said document is a manufactured document by the Applicants and in particular by the Applicant No.1. The police are yet to investigate that

aspect of the present crime.

6 The police have also recorded statement of the son of the Applicant No.1 and deceased Smt. Varsha. It *prima facie* appears that Smt. Varsha has informed the fact of consuming rat poison to the said witnesses in the present crime.

7 There is sufficient material available on record to clearly indicate that, the Applicant No.1 is the real perpetrator of the present crime and because of whose consistent harassment and cruelty Smt. Varsha was left with no other alternative but to commit suicide and therefore, he does not deserve to be protected by pre-arrest bail.

8 The Applicant No.2 is the mother of the Applicant No.1. The Applicant No.2 is 70 years old. Apart from the allegations made in the first information report, *prima facie* it appears that, there is no allegation against her for abetting Smt. Varsha to commit suicide. In view thereof, the Applicant No.2 can be protected by pre-arrest bail.

Hence the following order.

- a) The Application of Applicant No.1 Praveen Shantaram Kelshikar for pre-arrest bail is rejected.
- b) The Application of Applicant No. 2 Jayashree

Shantaram Kelshikar is allowed in the following terms.

- a) In the event of arrest in C.R. No. 417 of 2018 registered with Worli Police Station, Mumbai the Applicant No. 2 shall be released on bail on her furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- b) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- c) Application is partly allowed in the aforesaid terms.

9 In view of the Order passed in Anticipatory Bail Application No. 332 of 2019, the Criminal Application No. 270 of 2019 for intervention does not survive and is accordingly disposed of.

(A.S. GADKARI, J.)