

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.912 OF 2019

Balabai Uttam Zore & Anr.	]	... Applicants
Versus		
The State of Maharashtra	]	... Respondent

Mr. Anand Patil, Advocate for the Applicants.
Ms. S.S. Kaushik, APP for the State/Respondent.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 30th JULY, 2019.

P. C. :-

1. The applicants are seeking their release on bail in connection with C.R.No.139/2018 registered with Vadgaon Police Station, District Kolhapur u/sec. 304 (B), 498 A, 201 r/w 34 of I.P.C.
2. Initially the offence was registered u/sec. 302 of I.P.C. However, the charge-sheet is filed under the sections mentioned herein above.
3. The FIR in this case is lodged by father of deceased Sunanda on 03/05/2018. The Applicant No.1 is sister-in-law i.e. wife of brother of husband of the deceased and the Applicant No.2 is the brother-in-law i.e. brother of the husband of the deceased Sunanda.

4. It is mentioned in the FIR that, Sunanda had got married to Vitthal on 09/05/2017. She was residing in her matrimonial house with her husband, mother-in-law, two brothers-in-law and Applicant No.1. Applicant No.2 was working in Mumbai and used to visit matrimonial house of the deceased at Bhendawade. The husband of the deceased was also working in Mumbai as rickshaw driver. Sunanda was suffering from fits. At the time of the incident she was pregnant of five months. It is mentioned in the FIR that, Sunanda used to complain to the first informant that, her husband used to demand money from her. The mother-in-law and Applicant No.1 also used to demand money and ornaments from her and on that count she was ill treated. Whenever, the Applicant No.2 visited deceased's matrimonial house, he used to harass her under influence of liquor. It is further mentioned in the FIR that, on 17/04/2018, husband of the deceased had come back from Mumbai. On 02/05/2018, deceased's brother Pravin had gone to her matrimonial house to take her for attending marriage ceremony at their parents' village. However, the husband did not allow the deceased to go with her brother. So the brother left their place alone. While he was on the way, he received a phone call from husband of the deceased telling him that, deceased

had set herself on fire and she was serious. The brother and others came to the house of deceased. They found that the deceased was lying in a burnt condition in her house. Thereafter, the father of the deceased lodged the FIR u/sec. 302, 304 (B), 498 A r/w 34 of I.P.C.

5. Both the applicants were arrested on 03/05/2018. The investigation is carried out and the charge-sheet is filed.

6. The investigation papers in the charge-sheet show postmortem notes mentioning the cause of death as “Shock due to thermal burns”. Viscera was preserved for chemical analysis. But the external injuries show that the deceased had suffered 72% burn injuries.

7. The charge-sheet also contains statement of family of the deceased i.e. mother Bhagabai and brother Pravin. Bhagabai has narrated the history as mentioned in the FIR. Brother Pravin's statement is important. His statement is recorded u/sec. 161 of Cr. P.C. as well as u/sec. 164 of Cr. P.C. Apart from mentioning the harassment meted out to the deceased as narrated in the FIR, he has described the incident dated 02/05/2018. He has stated that, he had gone to the matrimonial house of the deceased at around 11.45 a.m.

The deceased had asked Applicant No.2 whether she could go to her parental house. The Applicant No.1 had told her to ask her husband. Her husband had declined. Even husband of the Applicant No.1 who was not present in the house was contacted on phone and even he refused permission. Therefore, the deceased was very upset. The husband of the deceased told this witness that, the deceased was on medication and therefore, she could go to her parents house after two days. The husband strongly told the deceased that if she went against their instructions, then she need not come back. Because of this she was very upset. While he was proceeding towards his village, he was informed on telephone by the husband of the deceased that, she was in a serious condition as she had set herself on fire.

8. Heard Mr. Anand Patil, Ld. Counsel for the Applicants and Ms.S.S. Kaushik, APP for the State/Respondent.

9. Mr. Patil submitted that, there are vague allegations against the present applicants in respect of the harassment. He submitted that, Applicant No.2 was working in Mumbai and only occasionally used to visit his native place. Therefore, there was no occasion for him to

cause harassment to the deceased which would attract provisions of Section 498 A of I.P.C. He is not concerned with the alleged incident because he was not present. He submitted that, even the allegations against Applicant No.1 are general in nature and there is no mention of specific incidents where the Applicant No.1 had ill treated the deceased. He therefore submitted that, no offence is shown against either of the applicant. He further submitted that, Applicant No.1 has three small children aged 6, 7 and 9 years respectively. Her continued detention before trial is unwarranted and is causing serious difficulty in raising her children.

10. Ld. APP on the other hand submitted that, the offence is serious and there are allegations in the charge-sheet. She relied on statement of brother. The statement of brother of the deceased shows that, Applicant No.1 was present in the house when the deceased was denied permission to go to her parental house.

11. I have considered these submissions. Admittedly, Applicant No.2 was not in the village on the date of incident. There are hardly any allegations against him except the general statement that he used

to harass the deceased under influence of liquor. As far as the Applicant No.1 is concerned, there are allegations that, on that very day she had not allowed the deceased to go to her parental house. The statement of the brother shows that, the Applicant No.1 had told the deceased to seek permission from husband of the deceased. This suggestion was quite normal. The allegations of harassment in the past are general in nature and the investigation papers do not reveal that Applicant No.1 had caused such harassment as would attract the parameters of Section 498 A of I.P.C. Though there are allegations of demand of money and ornaments attributed to Applicant No.1, for that reason her further detention during pendency of the trial is not warranted, since the investigation is over.

12. In view of the above discussion, both the applicants deserve to be released on bail during pendency of the trial. Hence, the following order.

ORDER

1. The Applicants are directed to be released on bail in connection with C.R.No. 139/2018 registered with Vadgaon Police Station, District Kolhapur, on their furnishing P.R. Bond in the sum of

Rs.25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.

2. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)