

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

ANTICIPATORY BAIL APPLICATION NO.772 OF 2019

Bibin Babulal Pandya & Anr. Applicants

versus

The State of Maharashtra Respondent

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO.773 OF 2019**

Chandrikaben Vijaybhai Pandya Applicant

versus

The State of Maharashtra Respondent

- Mr. Suhail Shariff I/b. Rinky Deb a/w. Mohammed Najmi, Advocate for Applicants.
- Mr. S. S. Pednekar, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 10th JULY, 2019**

P.C. :

1. Both these applications are disposed of by this common order because they are arising out of the same C.R. No.I-265/2018 registered at Panchavati Police Station, Nashik under Section 306 r/w. 34 of IPC.

2. The applicant No.2 Mohini in ABA No.772/2019 is the wife of deceased Shrawan Joshi in this case. Applicant No.1 in the same application is her paternal uncle. The applicant in ABA No. 773/2019 is the mother of Mohini and mother-in-law of the deceased Shrawan. The FIR was lodged by one Smt. Chanda Joshi on 14/7/2018 who was the mother of the deceased Shrawan Joshi. It is her case in the FIR that her son Shrawan got married with Mohini i.e. applicant No.2 in ABA No.772/2019 on 7/12/2015 at Rajkot. Mohini resided in her matrimonial house at Panchavati Nashik for six months. Thereafter, her father took her to her maternal house on 11/6/2016. Thereafter, Mohini never returned. Whenever the first informant and her son went to get her back, they used to be insulted and humiliated. There was a meeting between the families. However, nothing fruitful came out of it. It is further case of the first informant that Mohini's family demanded Rs.11 Lakhs as damages. The FIR further mentions that Mohini had lodged complaint at Mahila Police Station, Rajkot City, under Section 498-A and other sections of IPC as well as for offence under Section 3 and 4 of Dowry Prohibition Act. The FIR

was lodged on 16/7/2016 in which the informant and her son was shown as accused. In that offence, the deceased Shrawan and the first informant had obtained anticipatory bail. Mohini had also lodged proceedings under Domestic Violence Act and under Section 125 of Cr.P.C. The deceased Shrawan had to attend all these proceedings. On the other hand, Shrawan had lodged matrimonial petition under Section 9 of the Hindu Marriage Act. For that proceeding, Mohini never used to remain present. It is the informant's case that Mohini and her relatives used to constantly harass him by making phone calls. On 2/7/2018, the first informant's son Shrawan consumed poison. He died on 3/7/2018 while taking treatment in Sanjeevani Hospital. It is further case of the first informant that, on 10/7/2018, the first informant found a suicide note written by Shrawan when she was going through his documents. The suicide note had squarely blamed Mohini and her relatives for his act. Based on these allegations, the FIR was lodged.

3. Heard Mr. Shariff, Ld. Counsel for the applicants and Mr. Pednekar, Ld. APP for the State.

4. Ld. Counsel for the applicants submitted that Mohini had left the matrimonial house after six months of her marriage. She herself was harassed and therefore she had exercised her legal remedies. By no stretch of imagination, it can be said that by exercising such limits, she had committed any offence.

5. Ld. APP pointed out that the suicide note found by the first informant was included in investigation papers. I have perused that suicide note. The suicide note mentions names of 20 persons from the family of Mohini. The deceased had blamed everyone of them for his act.

6. Looking at the suicide note, it appears that the deceased was going through mental stress and he was blaming all the members of Mohini's family. Mohini herself had filed proceeding under various provisions of different Acts. Mohini was

entitled to initiate those proceedings for redressal of her grievance.

7. Filing of such proceedings cannot amount to abetment to commit suicide. There is nothing more to show in the suicide note as to whether any of the applicants was constantly trying to contact the deceased and trying to force him in entering in any sort of compromise. The suicide note is silent on that aspect. Statement in the FIR to that effect is not supported by the suicide note. Taking over all view of the matter, at this stage, it is difficult to observe that any of the applicants was involved in the commission of offence punishable under Section 306 of IPC or any other offence for that matter. In any case, custodial interrogation of these applicants is not necessary. Though the incident is unfortunate and the deceased has lost his life, at this stage, there is nothing to show that the applicants are responsible for the same. All the proceedings initiated by both parties were still pending before competent courts. In this view of the matter, custodial interrogation of the applicants is not necessary and they deserve protection of anticipatory bail. Hence, the following order.

ORDER

- (i) In the event of their arrest in connection with C.R. No.I-265/2018 registered at Panchavati Police Station, Nashik, the Applicants in ABA No.772/2019 and in ABA No.773/2019 are directed to be released on bail on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties each in the like amount.
- (ii) Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)