

HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1515 OF 2019

Chetan Govind Chaudhari	... Applicant
Versus	
The State of Maharashtra	... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 1516 OF 2019

Govind Namdeo chaudhari & Anr.	... Applicants
Versus	
The State of Maharashtra	... Respondent

Mr.Ashok Mundargi, Senior Advocate I/b Sandeep Bali, Advocate for the Applicants.

Mr. Y. M. Nakhwa, APP for the State/Respondent in ABA 1515/19.

Mr. S.S. Pednekar, APP for the State in ABA 1516/19.

Ms. Rohini T. Shewale, API, Chinchwad Police Station, Pimpri-Chinchwad.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 12th July, 2019.

P. C. :-

1. Both these applications arises out of the same CR No. 205/2019 registered with Chinchwad Police Station, Pune under sections 498-A, 306, 323 read with 34 of the IPC, and therefore, both these

applications decided by this common order.

2. The applicant in ABA No. 1515/19 is the husband of the deceased and the applicants in ABA No. 1516/19 are parents of the applicant Chetan in ABA No. 1515/19.

3. The FIR is lodged on the basis of the dying declaration of the deceased Yogita Choudhari recorded by the assistant police inspector, Chinchwad Police Station, while she was admitted in Surya Hospital.

4. The dying declaration mentions that deceased was a doctor, but she was not practicing. On 10th May 2019, she had verbal exchanges with her husband and husband's parents. Thereafter, her father-in-law (applicant Govind) had lodged a complaint at the police station. At that time, the police pacified the parties. Thereafter, Yogita came back home. It is further mentioned in her FIR /dying declaration that, around 9.00 p.m., she consumed some poisonous substance. Thereafter, she went out and purchased kerosene. When she returned home, she felt nauseatic and therefore she called applicant Chetan. When he came home, again there was quarrel between the couple. She has further alleged that Chetan then assaulted her. After that she poured kerosene on herself. It is further alleged that even Chetan poured some kerosene on her person. After that she again poured

kerosene on herself. Yogita then snatched the match stick from Chetan's hand and set herself on fire. According to the prosecution case, husband Chetan himself took her to hospital. The investigation shows that chetan had suffered 10-15% burn injuries on his person. Based on these allegations and on the basis of her dying declaration FIR is lodged.

5. Heard, Mr. Mundargi, learned senior counsel for the applicants and Mr. Jadhav, learned APP for the State.

6. Mr. Mundargi invited my attention to the past history of troubled relations between applicants and deceased. The applicant Chetan and the deceased had got married more than nine years ago and they had a son aged about 7 years at the time of the incident. In the year 2015, all these applicants had given an application to the police chowky at Chinchwad. That application is dated 19th January 2015. It was mentioned in that application that there used to be uncomfortable relations between the couple. The deceased Yogita used to reside only for few months with the applicants and for rest of the time she used to reside at her parental house. Applicant Chetan was suffering from Cancer and he was undergoing Chemotherapy. At that time, Yogita had gone to her parental house and stayed there for about

eight to ten months. Whenever she used to come to her matrimonial house, she used to pick up quarrels with the applicants. On one occasion, she had poured turpentine on herself and on Chetan. Thus, according to the applicants they were under constant threat and fear. They approached police by way of their application and expressed their apprehension that Yogita was prone to take extreme steps. Even thereafter, the relationship did not improve. But she continued to reside in her matrimonial house with the applicants.

7. On the day of incident, i.e. on 10th May 2019 in the afternoon, there was a quarrel between Yogita and applicants Govind and Rajani on some petty issue. According to the applicant Govind, Yogita assaulted and abused him. Applicant Rajani, Govind thereafter lodged non-cognizable complainant with Chinchwad Police Station, which was registered at 2.35 p.m. Police saw injuries suffered by both the applicants Govind and Rajani and referred them to YCM Hospital, Pimpri. Thus, according to Mr. Mundargi the applicant's case about being abused and assaulted was true. He also invited my attention to a certificate attached to this application, which shows that the applicant Govind was suffering from 100% blindness of both eyes. He therefore, submitted that the applicant Govind was not in a position to cause any

harassment. He invited my attention to the document showing that the applicant Govind and Rajani's daughter and Chetan's sister was mentally challenged and was kept in a special care centre. The applicants had to look after her as well. He therefore submitted that the history of relationship between the parties shows that the deceased used to pick up quarrels and used to visit her parental house whenever she desired. Therefore, it cannot be said that the harassment was caused by the present applicants amounting to abatement under Section 107 of the IPC.

8. As against these submissions, the learned APP relied on dying declaration of Yogita as well as the statements of her parents and brother. I have perused those statements. In those statements, there is a reference to the harassment caused by the applicants to the deceased. At the same time, those statements also show that the deceased wanted to study post graduation and therefore, her father had helped her taking admission at a college at Baroda. The fees were paid by her parents and for her education, the deceased used to visit her parental house. Thus, these statements show that the deceased was not prevented by any of the applicants to go to her parental house. The learned APP further invited my attention to the complaint

made by the deceased herself to the Police Inspector, Chinchwad Police Station. That complaint was dated 14th February 2015. In that complaint also there were allegations against the present applicants. In respect of this complaint, no further steps was taken by the deceased or her parents to pursue the matter by lodging any FIR. In fact, the deceased was residing with the applicants after that till the date of incident.

9. I have considered the submissions advanced by both the sides. The prosecution case in respect of the incident dated 10th May 2019, in the afternoon there was quarrel between the deceased and the applicants Govind and Rajani at their residence. As mentioned earlier, Govind has already lodged an NC complaint with the police. When the deceased had set herself on the FIR, the applicants Govind and Rajani were not present in the house. In the incident was had taken place in the afternoon, applicants Govind and Rajani were assaulted by the deceased as mentioned in the NC complaint. Both applicants Govind and Rajani were sent to hospital for treatment under Police Yadi. At that time, even as per the dying declaration, the deceased had gone to the police station but police had tried to make her see reason. Even on that occasion, deceased had not lodged any complaint in respect of

allegations amounting to the offence under Section 498-A. At that point of time, she had not made any grievance that either of these applicants were harassing her to such an extent which would amount to the offence punishable under Section 498A. Neither she had suggested that she was left with no option but to commit suicide. When the actual incident took place, initially, her husband was not at home. The deceased had already consumed poisonous substance. Therefore, there was no instigation on the part of the applicant Chetan. Deceased herself called Chetan to their house. After he came home, further incident took place. Even in that incident, deceased herself had purchased kerosene and had already poured some kerosene on her person. Therefore, it cannot be said that the applicant Chetan took any part in the incident amounting to abetment of her suicide.

10. The allegations made by the parents and brother of the deceased, no doubt mention their grievance against the applicants. However, before the incident, neither the deceased nor anyone from her parental family had lodged any complaint in respect of these allegations. Thus, the statements reflect their grievance as an after thought. These statements indicate that the deceased used to visit her

parental house whenever she wished. Therefore, it cannot be said that the deceased was left no option but to commit suicide. The record shows that in the past also she had tried to commit suicide and the applicants had put their grievances and apprehension in writing. Their application, indicated that they were living in constant apprehension which unfortunately came true on the fateful day i.e. on 10th May 2019.

11. Considering all this discussion, custodial interrogation of the applicants is not necessary. Though they will have to attend the police station and co-operate with the investigation. It is made clear that the observations made in this order are restricted to decision of these applications only. In this view of the matter, following order is passed:-

ORDER

(i) In the event of their arrest in connection with C.R. No. 205/2019 registered with Chinchwad Police Station, Pune, the Applicants in ABA No. 1515/19 and in ABA 1516/19 are directed to be released on bail on their furnishing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.

(ii) The applicants shall attend the concerned police station from 22nd July 2019 to 25th July 2019 between 3.00 p.m. to 5.00 p.m. and shall co-operate with the investigation.

(iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)