

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

BAIL APPLICATION NO.2279 OF 2019

1 Srikant Indrapati Jaiswar	
2 Rajmani Indrapati Jaiswar	
3 Bablu Indrapati Jaiswar	... Applicants
Vs	
State of Maharashtra	... Respondents

Mr. Neville D. Deboo i/by ^{...} Mr. Abhay B. Bhoir for the Applicants.
 Mr.S.R.Agarkar , APP for the Respondent-State.
 PSI Savita Jadhav attached to Pantnagar Police Station present.

CORAM : SANDEEP K. SHINDE J.
DATE : 6th NOVEMBER, 2019

P.C. :

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

2 Applicant No.1 is husband and applicant nos.2 and 3 are brother-in-laws, of the deceased Rekha. Applicants and their parents are accused against whom Crime No.210 of 2018 has been registered under Sections 304B, 306 read with Section 34 of the Indian

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Penal Code, 1860 ('**IPC**' for short) on complaint made by father of the deceased Rekha.

3 Father-in-law and mother-in-law of the deceased Rekha are already released on bail.

4 It is the prosecution case that within a year of marriage, Rekha suffered a dowry death, which gives rise to presumption under Sections 113-A and 113-B of the Indian Evidence Act, 1872 as against the accused. The learned APP has taken me through the complaint wherein it is alleged that accused were demanding valuables from the deceased Rekha and was suffering harassment on account of non-fulfilment of such demands. Cause of death as reported is due to be hanging in-as-much as it is opined "*signs of asphyxia with the evidence of ligature mark on neck with gravid uterus; however, final opinion reserved pending for reports of samples preserved*"

5 The learned counsel for the applicants submits that allegations made by the father of

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deceased Rekha are vague and general in nature; that the applicants are in custody since 29th June, 2018. Charge-sheet has been filed and the trial is not likely to commence in near future. It is submitted that accused have permanent residence at Mumbai and will always be available as and when required by the Trial Court. He submits that presence of the accused can be secured by imposing suitable conditions.

6 I have gone through the charge-sheet. There are allegations of dowry demand by the accused and physical abuse. Evidence in the form of post-mortem report shows in Column No.17 following injuries suggesting physical abuse before the incident;

"2) Lacerated wound present over nose, in midline, upper part of, vertically oblique of size 2 cm x 1 cm x bone deep, margins were irregular, ragged, reddish.

3) An abrasion of size 3 cm x 1 cm present over right lower lateral abdomen, reddish."

7 Evidence on record shows at the relevant time when the incident had taken place, the applicant no.3 was living at native place. There is nothing on

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record to show that applicant no.2 was present in the house soon before the incident. In view of these facts, I direct release of the applicant nos.2 and 3 on bail.

8 So far as the applicant no.1, who is husband of the deceased Rekha, is concerned, I am not inclined to enlarge him on bail in view of the fact that on the date of the incident, he left the house in the morning soon before the incident. Injuries disclosed in post-mortem report, prima-facie indicate that she was physically abused prior to the incident. Deceased Rekha suffered death within a year of marriage for alleged non-fulfillment of dowry demand. In view of this, request of the applicant no.1 to release him on bail is hereby rejected. Application is partly allowed and hence, the following order:

ORDER

(I) Application for bail by the applicant no.1 is rejected.

(ii) Applicant Nos.2 and 3 are directed to be released on bail on their executing PR bond in the sum of Rs.25,000/- each with one or more local sureties in the

like amount.

(iii) Applicant Nos.2 and 3 shall report to the concerned police station twice in a month on 15th and 30th day of every month for a period of three months.

(iv) The applicants shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicants to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vii) The applicants shall file an undertaking with regard to clauses (iii) to (v) in the trial Court, within two weeks of his release;

(viii) If there are two consecutive defaults either in attending the Police Station or in appearing before the trial Court, or breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

9 The application is disposed of in aforesaid terms.

10 It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on

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its own merits, in accordance with law, uninfluenced by the observations made in this order.

11 All concerned to act on the authenticated copy of this order.

(SANDEEP K. SHINDE, J.)