

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.758 OF 2020

Kamalbai w/o Ramji Hanwate

... Applicant

Versus

The State of Maharashtra

... Respondent

.....
Mr. S. S. Rathi, Advocate for applicant.

Mr. S. Y. Mahajan, APP for respondent – State.
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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 15th October, 2020.

ORDER :

. Present application has been filed by the applicant-original accused No.2 under Section 438 of the Code of Criminal Procedure. The applicant is apprehending her arrest in connection with Crime No.32 of 2020 registered with Hingoli Rural Police Station, Taluka and District Hingoli for the offences punishable under Sections 302, 307, 498-A, 323, 504, 506 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. S. S. Rathi for applicant and learned APP Mr. S. Y. Mahajan for respondent – State.

3. It has been vehemently submitted on behalf of the applicant that the present applicant is the mother-in-law of deceased Sangita. The marriage between Sangita and son of the applicant i.e. Shankar was solemnized in the year 2012. The couple was blessed with one son and one daughter. Another son of the applicant by name Nitin resides at Aurangabad in connection with his work. Nitin had met with an accident in February, 2020. In connection with the said situation, applicant had come to Aurangabad to take care of her son and she remained with the son. There was some dispute between Sangita and Shankar at their house in village at about 7.00 to 7.30 a.m. on 09-02-2020. Sangita, thereafter, committed suicide by pouring kerosene on her person and ablazing. Thereafter, when Sangita was admitted to hospital, her dying declaration was recorded and on the basis of the said dying declaration, the offence has been registered. Perusal of the said dying declaration would clearly show that the applicant was not present at the spot. The allegations against her are very much general in nature and it is stated that on trifle grounds, she used to abuse deceased and cause mental harassment. The investigation is over and charge sheet is filed. Therefore, the custodial interrogation of the applicant is not required.

4. Per contra, learned APP strongly opposed the application and submitted that the applicant has absconded and her whereabouts were not at all disclosed by any of the relatives. Order was passed by the Police Inspector to

Police Head Constable and Constable to take search of the applicant, as she is missing since 09-02-2020. They should search for her and arrest her. Report has been given by police naik Mhaske on 25-03-2020 that the inquiry with the relatives could not yield any positive report, so also certificate has been given by Sarpanch of Adgaon on 25-03-2020 stating that since the date of the offence, the applicant has absconded and nobody has seen her. This fact is definitely required to be considered. Further, the statements of witnesses would show the involvement of the applicant and commission of offence under Section 498-A of the Indian Penal Code by her.

5. Definitely, when the charge sheet is filed, the custody of the applicant is not required for the purpose of investigation, however, the conduct of the applicant is required to be considered. Though she is a lady of 50 years old, yet, she has absconded and charge sheet has been filed against her under Section 299 of the Code of Criminal Procedure. The reports by police show that they had made efforts to arrest the applicant, but she has successfully avoided the same. Such an accused deserves no sympathy. Possibility of getting such accused absconding again cannot be ruled out and, therefore, on the basis of her conduct, she does not deserve to be released on anticipatory bail. The application stands rejected.

[SMT. VIBHA KANKANWADI, J.]

SCM