

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.901 OF 2020

Mainabai w/o Malhari Jadhavar
Age: 56 Yrs., occu. Agril.
R/o Khadkoni, Tq. Barshi,
District Solapur = **APPLICANT**

VERSUS

The State of Maharashtra,
Through Police Inspector,
Police Station, Bhoom,
Dist. Osmanabad. = **RESPONDENT**

Mr.SS Thombre, Advocate for Applicant;
Mr.VM Kagne,APP for Respondent-State.

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 7th December, 2020.

PER COURT:-

1. Present application has been filed by applicant-original accused, under Section 438 of Cr.P.C. as she is apprehending her arrest in connection with CR No.0120/2020 dated 13.9.2020 registered with Bhoom Police Station for the offences punishable under Sections 306, 498A read with 34 of IPC.

2. Heard learned Advocate and learned APP appearing for respective parties.

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3. It has been vehemently submitted on behalf of the applicant that the applicant is mother-in-law of the deceased. Information has been lodged by father of the deceased. Custodial interrogation of the present applicant is not required. The deceased has committed suicide by drowning. It is to be noted that marriage of son of the applicant was performed with the deceased about five years prior to the FIR. There was absolutely no complaint about ill-treatment during the said period. Only with intention to malign the image of the applicant and her family, the FIR has been lodged with concocted story.

4. Per contra, learned APP objected for granting anticipatory bail to the applicant stating that the applicant and her husband, i.e. father-in-law of the deceased, used to insult the deceased when she he begotten a daughter. They used to say that she has not given son and, therefore, they used to give threat that second marriage of their son would be performed. Further, about 4-5 years prior to the FIR, the deceased had informed the informant that her husband and parents-in-law are

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harassing her for an amount of Rs. 4,00,000/- to be brought by her from her parents for purchase of agricultural land. Even on 12.09.2020, the deceased had informed the informant that the present applicant, her husband and son were assaulting and harassing the deceased and giving her threat to kill. Thereafter, when the informant and his nephew started to go to meet the deceased, son of the applicant gave a phone call and told them that the deceased has expired due to drowning. Taking into consideration these allegations, custodial interrogation of the applicant is warranted.

5. At the outset, it is to be noted that the death of deceased is stated to be by drowning and, therefore, there is nothing to be recovered at the instance of the present applicant. The marriage of the deceased with son of the applicant is stated to have taken place on 28.11.2014, i.e. about five years prior to her death. It is not stated in the FIR that at any point of time, there was an attempt to lodge a complaint against the accused persons for the alleged harassment. With the above said contents of the FIR, custodial interrogation of the

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applicant – mother-in-law of the deceased, is not required.

6. It appears from the order passed by this Court on 2.12.2020 that submission was made on behalf of the prosecution that no details are mentioned as to the ditch in which the deceased was found to have fell down and died due to drowning. Those details were brought by learned APP today. However, it is to be noted that when the prosecution itself is coming with a case of 306 of IPC and no doubts were raised by the informant, so also at present, it appears that the Investigating Officer has not tried to invoke Section 302 of IPC, we need not go towards those details.

7. This Court by order dated 15th October, 2020 had granted interim relief to the applicant. That interim relief deserves to be confirmed and made absolute. Hence, following order,

ORDER

- i. The Application stands allowed;
- ii. The order passed by this Court on 15th October, 2020, thereby granting

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interim relief, is hereby confirmed and made absolute.

iii. In the alternative, if the applicant is not arrested formally, in the event of arrest of the applicant in connection with CR No.120/2020 dated 13.9.2020, registered with Bhoom Police Station, District Osmanabad, for the offences punishable under Sections 306, 498A read with 34 of IPC, she be released on PR and SB of Rs.15,000/-.

iv. The applicant shall not tamper with the prosecution evidence in any manner; shall cooperate with the investigation and remain present before the IO on every Sunday till filing of charge sheet.

(SMT. VIBHA KANKANWADI,J.)

BDV