

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

BAIL APPLICATION NO.1380 OF 2020

01 Navnath s/o Bhimrao Chavan
02 Suresh s/o Navnath Chavan

Applicants

Versus

The State of Maharashtra

Respondent

Mr.N.S.Ghanekar, advocate for the applicants.
Mr.A.S.Shinde, APP for the Respondent.

CORAM : V.K.JADHAV, J.

DATE : 02nd December, 2020.

PC :

1 The applicants are seeking bail in connection with Crime No.292/2020, registered with Khultabad Police Station, Taluka Khultabad, District Aurangabad, for the offences punishable under Sections 304-B, 306, 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

2 Heard both sides.

3 The learned Counsel for the applicants submits that the investigation is now over and the charge sheet is submitted. He submits that both the applicants are in jail in connection with present crime since 07th September, 2020. Applicant no.1 is the father-in-law and applicant no.2 is the husband of the deceased. The learned Counsel submits that the marriage was solemnized on 27th May, 2020

and within four months i.e. on 06th September, 2020, the deceased committed suicide by hanging herself with the help of saree to the roof in the matrimonial house itself. The learned Counsel submits that said period of four months is a very short span and it is unbelievable that the deceased was subjected to illtreatment to such an extent that she was forced to commit suicide.

4 The learned Counsel submits that so far as applicant no.1 is concerned, he is an aged person and general allegations have been made against him. The learned Counsel submits that no specific instance has been quoted in respect of applicant no.1 nor anything has been revealed during the course of investigation against him.

5 The learned Counsel submits that so far as applicant no.2-husband is concerned, the deceased was having a mobile bearing Cell No. 8788977490. On the earlier night, at about 9.58 p.m., deceased had received a call on her mobile phone from one person, namely Mohan Ubale. The applicant no.2-husband told the deceased that he would inform her parents about the said phone call. The learned Counsel submits that because of fear of the parents, deceased had committed suicide. The applicant no.2 is a young person having no criminal history. There is no possibility of tampering with the prosecution evidence. He, therefore, submits that both the applicants may be released on bail.

6 The learned A.P.P. has strongly resisted the application on the ground that there are specific allegations against both the applicants. There was demand of huge amount of Rs.5 lakhs for starting Hardware shop and the deceased was subjected to illtreatment on account of non fulfillment of said demand. The learned A.P.P. submits that the deceased died in the matrimonial home in otherwise than normal circumstances and as such, presumption under Section 113-B of the Evidence Act, attracts. The learned A.P.P. submits that even on the day before the commission of suicide, the deceased had made a phone call to her parents and informed them about the illtreatment being extended to her on account of non fulfillment of said demand. The learned A.P.P. submits that *prima facie*, there is a strong case against both the applicants. There is possibility of tampering with the prosecution evidence if the applicants are released on bail. He, therefore, submits that the applicants may not be released on bail.

7 In reply, learned Counsel for the applicants submits that during the course of investigation, the Investigating Officer has collected call recording details and on perusal of the same, it appears that on 06th September, 2020, at about 7.00 p.m., deceased had not made any phone call to the informant. On the other hand, the call recording details indicates that the deceased had made a phone call from her mobile at about 10.04 p.m. on 06th September, 2020. The learned Counsel submits that the deceased had made the said call to one Mohan Ubale.

8 On going through the allegations made in the complaint and on perusal of the charge sheet, it appears that some two months after the marriage, applicant no.2-husband had been to the informant's house (father of the deceased) along with the deceased. At that time, applicant no.2 has informed the informant that due to lock down, he was not in a position to go to Pune to join his private job and thus demanded cash amount of Rs.5 lakhs to start hardware shop. The informant has promised to give said amount after harvesting the crop. Accordingly, applicant no.2 took deceased along with him for cohabitation. It further appears that on 02nd September, 2020, i.e. five days before the commission of suicide, applicant no.2-husband, along with deceased, had been to the informant's house to attend one function and at that time, the applicant no.2 has again demanded said amount of Rs.5 lakhs. Applicant no.2, at that time, has also threatened the informant that if the said amount is not given to him, he would not cohabit with the deceased.

9 So far as applicant no.1 is concerned, there are general allegations without specifying any instances against him. Furthermore, applicant no.1 is an aged person. Thus, considering the entire aspects of the case, I am inclined to release applicant no.1 on bail.

10 There are two specific instances recorded in the complaint as against applicant no.2. So far as applicant no.2-husband is

concerned, *prima facie*, there is a strong case against applicant no.2. *Prima facie*, there is evidence as regards illtreatment being extended to the deceased by applicant no.2 on account of non fulfillment of said demand of cash amount and the deceased had committed suicide in her matrimonial house within four months from the date of her marriage. Though the learned Counsel for the applicants vehemently submitted as regards call made by the deceased, by using her mobile phone and the call recording details also indicate the same, however, at this stage, defence of the applicants cannot be considered. The call recording details merely indicate the call made from the mobile of deceased to another mobile phone at about 10.04 p.m. on 06th September, 2020. However, the applicant has taken the defence by referring the said call, that the deceased had made said call to one Mohan Ubale and since applicant no.2-husband had questioned the deceased and further told her that he would inform about the said phone call to her parents, out of fear, deceased had committed suicide. So far as this specific defence is concerned, same cannot be considered at this stage. *Prima facie*, there is a strong case against applicant no.2-husband. I am not inclined to release applicant no.2 on bail. It is open for the applicant no.2 to raise the defence, raised herein, during the course of the trial and it is for the trial Court to consider the same on its own merits.

11 Hence, the following order:

(i) The application is hereby partly allowed.

(ii) The application of applicant no.2-Suresh s/o Navnath Chavan is hereby rejected.

(iii) The applicant no.1-Navnath s/o Bhimrao Chavan, in connection with Crime No.292/2020, registered with Khultabad Police Station, Taluka Khultabad, District Aurangabad, for the offences punishable under Sections 304-B, 306, 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, be released on bail on his furnishing Personal Bond of Rs.25,000/- (Rs.Twenty Five thousand) with one solvent surety of the like amount, on the following condition:

(a) The applicant no.1-Navnath s/o Bhimrao Chavan shall not tamper with the prosecution evidence, in any manner.

12 The application is accordingly disposed of.

(V.K.JADHAV)
JUDGE

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