

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 BAIL APPLICATION NO.1433 OF 2020
WITH
CRIMINAL APPLICATION NO. 2401 OF 2020

SANJIVANI W/O. SANDEEPAN ACHARYA
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Salunke Sudarshan J
APP for Respondents: Mr. S.P. Deshmukh
Advocate to assist the A.P.P. : Mr. S.S. Panale
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CORAM : V. K. JADHAV, J.
DATED : 18th DECEMBER, 2020

PER COURT:-

1. Learned counsel Mr. Panale, submitted across the bar an application seeking permission to assist the learned A.P.P. during the course of hearing of bail application. The same is taken on record. For the reasons stated in the said criminal application No. 2401 of 2020, the same is allowed in terms of prayer clause "B" and disposed of.

2. In so far as bail application is concerned, the applicant therein is seeking bail in connection with crime No. 0216 of 2020 registered with Sirsala police station, District Beed for the offences punishable under Sections 302, 498-A, 201, 323, 504, 506, 34 of I.P.C. and under Sections 3 and 4 of the Dowry Prohibition Act, 1961. Her application below Exh.6 in Sessions Case No. 46 of 2020 with similar prayer came to be rejected by the learned Additional Sessions

Judge, Ambajogai vide order dated 25.11.2020.

3. Learned counsel for the applicant submits that the investigation is over and the charge sheet has been submitted. The applicant is in jail in connection with the present crime since 9.8.2020. The applicant is aged woman 58 years of age. Learned counsel submits that the marriage of deceased was performed with co-accused Jagannath on 17.2.2019. It has been alleged in the complaint that some four months after the marriage, co-accused Jagannath had demanded cash amount of Rs.2,00,000/- to the informant for purchasing of car. It has further alleged that thereafter the demand was made for golden ring. It has been alleged in the complaint itself that in presence of the parents of deceased, co-accused Jagannath had extended beating to the deceased with the help of waist belt. There are general allegations against the applicant without quoting any specific instance. Learned counsel submits that during the course of investigation, statement of the mother of deceased was recorded wherein the mother of the deceased viz. Muktabai has stated that on 4.8.2020 i.e. just one day prior to the death, deceased Manisha had talked to her by using the mobile handset of the present applicant for near about half an hour and informed to the mother that out of the cash amount given by her brother Nandan and nephew on Rakhi Pournima, she had purchased one Saree of her choice and the choice of the present applicant. Learned counsel submits that had there been any ill-treatment at the hands of the applicant, as alleged,

the applicant would not have permitted the deceased to use her mobile handset to talk to her mother. Further there was no reason to the deceased to inform to her mother that with the choice of the present applicant she had purchased one Saree. Learned counsel submits that the prosecution case entirely rests upon the circumstantial evidence and there is no direct evidence in this case.

4. Learned counsel for the applicant submits that though there were certain injuries on the person of the deceased, however, Medical officer, who has conducted the postmortem examination has not given specific opinion about the homicidal death of deceased. Learned counsel submits that the applicant is aged woman languishing in jail since long. There is no possibility of tampering with the prosecution evidence. The applicant may be released on bail.

5. Learned A.P.P. has strongly resisted the application on the ground that the deceased died in her matrimonial home otherwise than under the normal circumstances. There are external injuries on the person of the deceased and those are antemortem in nature. Learned A.P.P. submits that in terms of the provisions of Section 106 of the Evidence Act, it is for the applicant and co-accused persons to explain about the death of deceased occurred in her matrimonial home otherwise than under the normal circumstances. Learned A.P.P. submits that there are allegations against the applicant. The deceased was subjected to ill-treatment on the count that in the

marriage, the golden ring was not offered to the present applicant. It has been alleged against the applicant that she was also giving ill-treatment to the deceased due to the said reason. The application may be rejected.

6. On going through the allegations made in the complaint and on perusal of charge sheet, though I find the name of the applicant mentioned in the F.I.R., however, it seems that general allegations have been made against her about ill-treatment being extended to the deceased on account of demand of golden ring. It appears that the allegations have been made mainly against the husband co-accused Jagannath, who has not only made demand for cash of Rs.2,00,000/- for purchasing the car only four months after the marriage, but thereafter also on one occasion extended the beating to the deceased with the help of waist belt in presence of her parents on account of non fulfillment of demand of golden ring.

7. I have carefully perused the statement of the mother of deceased viz. Muktabai. It appears that the mother of deceased has stated in her statement that one day prior to the death of deceased, the deceased had talked with her by using the mobile handset of the present applicant for near about half an hour and further informed her that whatever the cash amount she had received on account of Rakhi Pournima from her brother Nandan and nephew, she had purchased one Saree of her choice and the choice of the present applicant. It

thus appears that after the death of deceased otherwise than under the normal circumstances in the matrimonial home, F.I.R. came to be lodged against almost all family members, including the applicant. The applicant is aged woman languishing in jail since long. Thus, considering the entire aspects of the case I am inclined to grant bail to applicant on certain conditions. Hence the following order:-

O R D E R

- I. Application is hereby allowed.
- II. The applicant Sanjivani w/o Sandeepan Acharya, in connection with crime No. 0216 of 2020 registered with Sirsala police station, District Beed for the offences punishable under Sections 302, 498-A, 201, 323, 504, 506, 34 of I.P.C. and under Sections 3 and 4 of the Dowry Prohibition Act, 1961, be released on bail on furnishing personal bond of Rs.25,000/- with one solvent surety of the like amount on following conditions:-
 - a) The applicant shall not tamper with the prosecution evidence in any manner.
- III. Application is disposed of.

(V. K. JADHAV, J.)

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