

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

902 ANTICIPATORY BAIL APPLICATION NO.1001 OF 2020

**KANTABAI SANDEEP @ SANJAY TAWAR
VERSUS
STATE OF MAHARASHTRA**

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Advocate for Applicants : Mr. R.B. Narwade Patil
APP for Respondent : Mr. V.M. Kagne.

**CORAM : MANGESH S. PATIL, J.
DATE : 22.01.2021.**

PER COURT :

The mother of the deceased who was a child aged barely three years is being charged for killing it for which Crime No. 203/2020 is registered with Himayat Nagar Police Station, District Nanded, for the offences punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code. Apprehending her arrest she is now seeking bail in the event of arrest.

2. In substance the allegations are to the effect that the applicant was married in May 2013. Since inception she was cohabiting with the husband against her wish. A matrimonial dispute cropped up and since the time she was three months pregnant she went back to her parental home. It is then alleged that a child was born and brought up at her parental home. On 23.06.2019 the child started vomiting and was shifted to Shivanjali Hospital at Himayatnagar and then to Nirbhay Hospital at Nanded but succumbed on 26.07.2019.

3. It was found that he had died of poisoning for which he was given treatment but unfortunately could not recover.

4. The learned advocate for the applicant submits that being a mother it is most unlikely that she could have killed her own child. There is every

possibility of the child having died of food poisoning. The applicant being innocent and a woman, *ad interim* relief granted to her may be confirmed.

5. Learned A.P.P. opposes the application. He submits that there is a final opinion of the Medical Officer solicited by the Investigating Officer which indicates that the boy had died of poisoning. On a specific query even the Medical officer has refuted it to be a case of food poisoning.

6. In view of such state of affairs, it does appear that it is a matter of custodial death. Being the mother the applicant was expected to have some sort of explanation as to how the child could lay his hands on the poison if it was taken by him accidentally. All the while she has been feigning ignorance.

7. It is pertinent to note that since inception there is a grievance that she was not happily cohabiting with the husband. She had many a times expressed her intention to get married to a good looking person. There are allegations that even she was intending that her husband should take away the child and relieve her of any responsibility to enable her to get married again.

8. Considering all the aforementioned facts and circumstances, the applicant is not entitled to anticipatory bail.

9. The Application is rejected.

(MANGESH S. PATIL, J.)

mkd/-