

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

ANTICIPATORY BAIL APPLICATION NO. 929 OF 2021

1. Govind s/o Ramkrushna @ Ramkishan Khadap,
Age : 30 years, Occu. Agril.,
2. Anjali w/o Govind Khadap,
Age : 27 years, Occu. Household,

Both R/o. Walandi, Tq. Devni,
Dist. Latur.

...Applicants

Versus

The State of Maharashtra

...Respondent

.....
Mr. P. P. More, Advocate for the applicants
Mrs. Vaishali S. Choudhari, APP for respondent / State
.....

CORAM : V. G. BISHT, J.

**RESERVED ON : 02nd September, 2021
PRONOUNCED ON : 08th September, 2021**

PER COURT : -

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 preferred by the applicants seeking grant of pre-arrest bail in connection with Crime No. 0187 of 2021, registered with Devni Police Station, District Latur, for the offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code.

2. The informant attached to Devni Police Station received an information on phone on 11.06.2021, that Smt. Suchita

Chakradhar Khadap (since deceased) has committed suicide by hanging herself in the bathroom at village Walandi. The informant accordingly visited the spot and found the deceased in hanging position and in half burnt condition. However, her feet were resting on the floor. He prepared spot panchanama, sent body for post-mortem and after receiving the cause of death as 'death due to 70% burns', registered Accidental Death Report No. 70/2021 (in short "ADR").

3. Prosecution alleges that during the course of enquiry of said ADR, it revealed that in-laws of the deceased in furtherance of their common intention burnt deceased and with a view to give it colour of suicide, hanged her in the bathroom and thus attempted to destroy the evidence. Accordingly, FIR came to be filed.

4. Mr. P. P. More, learned Counsel for the applicants, at the outset, submits that the applicants have nothing to do with the death of the deceased inasmuch as they are residing separately. There is also unexplained delay in lodging the FIR. Applicants have been falsely implicated at the instance of the relatives of the deceased. In such circumstances, the application deserves to be allowed, urged learned Counsel.

5. Mrs. Vaishali S. Choudhari, learned APP, invited my attention to the statements of the witnesses recorded during the course of investigation and vehemently submitted that the deceased was firstly burnt and then hanged in the bathroom. According to learned APP, there is *prima facie* involvement of the applicants and the fact that the investigation is in progress, the application doesn't deserve consideration.

6. I have carefully gone through the FIR and the investigation papers. If the FIR is read carefully, it would be seen that after registration of ADR No. 70/2021 u/s 174 of the Code of Criminal Procedure, informant started making an enquiry in the matter, however, none of the relatives including the mother of the deceased came forward to complain against the in-laws or any of the relatives of the deceased. In the FIR, it is specifically averred that even the cousin of the deceased, namely, Rajkumar Govindrao Biradar was confronted about the cause of death but, he flatly told that he has no complaint against the death of the deceased and he would not lodge any complaint. However, according to the informant, during the course of enquiry under Section 174 of the Cr.P.C., it revealed to him that all the in-laws including the present applicants, who are brother-in-law and sister-in-law, respectively, in furtherance of their

common intention set the deceased on fire and then hanged her. On what basis he came to such a conclusion, remains to be seen.

7. There are statements of the witnesses. Mostly, the statements are of cousins, mother, brother and maternal uncle. It is pertinent to note that all these statements came to be recorded on 25.06.2021 and 26.06.2021. The commonality of the statements of all these witnesses is that the accused used to subject the deceased to ill-treatment so as to compel her to bring moneys from her parents. Since last year the parents of the deceased had stopped giving moneys. All these accused including the applicants first set the deceased on fire and then in order to destroy the evidence, hanged her.

8. It may not be out of place to mention here that these all are surmises. There is no eye-witness to the incident. What is disturbing from the FIR itself is that the deceased was found in half burnt condition and as also hanging but surprisingly her feet were touching the floor. Had she been hanged by the accused and the present applicants as is alleged, there would have been no question of her feet touching the floor of the bathroom. The cause of death is also not suicide but shock due to 70% burns. The whole case rests on

circumstantial evidence. In my considered opinion, this is a fit case where the benefit of pre-arrest bail can be extended in favour of the applicants.

9. In view of above, I pass the following order.

ORDER

- i] In the event of arrest of applicants herein, namely, Govind Ramkrushna @ Ramkishan Khadap and Anjali Govind Khadap, in connection with Crime No. 0187 of 2021, registered with Devni Police Station, District Latur, for the offences punishable under Sections 302, 201 r/w 34 of the Indian Penal Code, the applicants are directed to be enlarged on bail on their furnishing P.R. Bond of Rs.25,000/- [Rs. Twenty Five Thousand only] each, with one or two solvent sureties in the like amount.
- ii] The applicants shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.
- iii] The applicants shall not tamper with the prosecution evidence in any manner.

10. The application stands disposed of in aforesaid terms.

[V. G. BISHT]
JUDGE