

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

918 ANTICIPATORY BAIL APPLICATION NO.1102 OF 2020

RASUL DHOLAN PINJARI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Sagar S. Chitre with Mr. V.B. Patil
APP for Respondents: Mr. V.M. Kagne.

With

ANTICIPATORY BAIL APPLICATION NO.1143 OF 2020

IQBAL RASUL PINJARI
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicants : Mr. Sagar S. Chitre with Mr. V.B. Patil
APP for Respondents: Mr. V.M. Kagne.

CORAM : MANGESH S. PATIL, J.

DATE : 03.07.2021.

PER COURT:

1] Heard.

2] These are the applications under Section 438 of the Cr.PC. by the husband and other in-laws seeking bail in connection with Crime No. 661 of 2020 registered with Bazar Peth Police Station, Bhusawal, Dist. Jalgaon for the offences punishable under Sections 304-B, 498-A, 323, 504, 506 r/w. 34 of IPC.

3] Shortly stated, the allegations in the FIR lodged by the father of the deceased are to the effect that she was married to applicant Iqbal on 26 May 2015. She started cohabiting with him and the other in-laws in the matrimonial home. Initially, for few months, she was maintained properly but later on, she was taunted and teased on the ground that she

was not being able to cook and that her parents were not given proper gifts. There was a demand for money as well, wherein she was asked to fetch an amount of Rs. 2 Lakh from her parents.

4] Attempts were made to convince the applicants and prevent them from subjecting her to cruelty with the intervention of some reputed persons, but in vain. On 30 May 2020, she made a phone call to the informant saying that her in-laws were demanding Rs. 5 Lakhs for buying computers for setting up classes. She also complained about physical and mental ill-treatment and assault. She also informed that she was not being fed and was not feeling well.

5] The informant's son brought her back on the next day i.e. 31 May 2020. However, she was ill and was taken to hospital where she succumbed in the same night.

6] The FIR was lodged on 20 June 2020 and offence was registered.

7] The learned Advocate for the applicants would submit that there is enormous delay in lodging the FIR. There is serious doubt about the cause of death. There were no suspicious circumstances surrounding the death. The deceased was already suffering from some illness and has met natural death and consequently, Section 304-B of IPC would not be attracted.

8] The learned Advocate for applicants would further point out that the deceased was indeed suffering from some illness and the husband had taken her to a Doctor on 30 May 2020. He also points out

the Certificate issued by the Doctor. He, therefore, submits that perhaps because of the untimely death of his daughter, the father must have lodged a false FIR.

9] The learned Advocate would further submit that the investigation has been going on for last more than a year and must have been completed by now. The applicants/in-laws have already been protected by way of an ad-interim relief. There are no allegations about them having committed breach of the conditions subject to which the ad-interim relief was granted. Even now, they are ready to cooperate with the Investigating Officer. The allegations being vague not only the in-laws but even the husband would be put to unnecessary and unavoidable hardship if he is allowed to be arrested.

10] The learned APP opposes the application. He submits that on the basis of written instructions from the I.O. that the opinion as to the cause of death is not clear inasmuch as, it has been certified that she could have died a natural death.

However, the learned APP submits that though offence punishable under Section 304B of the IPC is kept aside, there is enough material to reveal complicity of the applicants in subjecting the deceased to cruelty on account of their demand for money. Though the in-laws have been protected by way of ad-interim anticipatory bail, the husband is still at large. His custodial interrogation, in the circumstances, is highly necessary and at least his application be rejected.

11] I have carefully gone through the investigation papers and considered the rival submission. As has been pointed by the learned APP,

the Associate Professor and Head of the Forensic Department of the Government Medical College, Dhule, has opined that the deceased could have died a natural death, in the following words :-

“CEREBRAL ENDEMA WITH PULMONARY ENDEMA ASSOCIATED WITH INTERSTATIAL NEPHRITIS WITH MUCINOUS CYSTADENOMA OF OVERY.”

In view of the said opinion, at this juncture, there would certainly be a genuine doubt about applicability of the provision of Section 304-B of IPC.

12] However, as far as the allegations regarding cruelty are concerned, needless to state that the FIR is not supposed to be an encyclopedia. True it is that the deceased was married for about 5 years, however, there are certain things which, in my considered opinion, startling and justify the inference which prima-facie would substantiate the allegations regarding deceased having been subjected to ill-treatment prior to her death.

13] Going by the FIR, the deceased had made a phone call to her parental home on the previous night i.e. 30.05.2021 complaining about the ill-treatment; physical as well as mental. The informant had assured to take her back and she was taken back to her parental home on the very next day. The applicant-husband in his application has produced a Certificate of a Doctor dated 30 May 2020, showing that she was taken to that doctor for treatment and was treated as an OPD patient on that day; meaning thereby, that there was substance in the allegations of the informant that deceased had made a phone call to her parental home complaining, inter-alia, about her illeness.

14] The learned Advocate for the applicant would submit that in fact, the deceased was suffering from some illness for few years prior to her death and was given appropriate medical treatment.

Indeed, that seems to be a ground being put forth while seeking anticipatory bail. However, conspicuously except this certificate, dated 30 May 2020, issued by a Medical Practitioner, there is absolutely no material to reveal that any medical treatment was provided to her by the husband and in-laws while she was cohabiting with them for so many years.

15] Apart from the above state of affairs, the very fact that she was taken to a doctor on the previous day, on which she made a phone call to the parental home and was taken back to the parental home, is indicative of the conduct of the husband towards the deceased.

16] Considering the aforementioned facts and circumstances, coupled with the fact that the in-laws have been enjoying ad-interim anticipatory bail for sufficiently long period now, without there being any grievance by the I.O. about their non-cooperation during the investigation, the in-laws are entitled to continuation of anticipatory bail whereas the request by the husband is liable to be refused.

17] Anticipatory Bail application No. 1102 of 2020 is allowed. Ad-interim relief granted to the applicants therein by order dated 17.11.2020 stands confirmed with the same terms and conditions.

18] Anticipatory bail application No. 1143 of 2020 is rejected.