

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

**ANTICIPATORY BAIL APPLICATION NO.1135 OF 2021**

1. Vilas Nivrutti Mehetre  
Age : 60 years, occ : nil  
R/o Mehetre Vasti,  
Jeurkumbhari, Tal. Kopargaon,  
District Ahmednagar.

2. Latabai Vilas Mehetre  
Age : 49 years, occ : household  
R/o Mehetre Vasti,  
Jeurkumbhari, Tal. Kopargaon,  
District Ahmednagar.

Applicants

Versus

The State of Maharashtra.

Respondent

**WITH**

**ANTICIPATORY BAIL APPLICATION NO.1136 OF 2021**

Rekha Swapnil Mehetre  
Age : 30 years, occ : household  
R/o Mehetre Vasti,  
Jeurkumbhari, Tal. Kopargaon,  
District Ahmednagar.

Applicant

Versus

The State of Maharashtra.

Respondent

...

Mr. S.J. Hon and Mr. A.T. Kanawade, Advocates for the applicants.  
Mr. S.B. Narwade, A.P.P. for respondent – State.

...

CORAM : **PRAKASH D. NAIK, J.**

DATE : 27-10-2021.

**ORDER :**

1. The applicants in both applications are apprehending arrest in Crime No.235/2021 registered with Kopargaon City Police Station, District Ahmednagar. First Information Report (for short, "F.I.R.") was registered on 28<sup>th</sup> July 2021 by Pandurang Londhe for the offences punishable under Sections 304-B, 498-A, 323, 504 read with Section 34 of the Indian Penal Code (for short, "I.P.C.").

2. The complainant has alleged that marriage of the victim (daughter of complainant) was solemnized with accused No.1 Nikhil Mehetre on 16<sup>th</sup> February 2021. During the marriage amount of Rs.2,00,000/- was parted to the family of accused. The victim joined the matrimonial home at Jeurkumbhari, Taluka Kopargaon. The accused ill-treated her. They demanded amount of Rs.2,00,000/- for constructing new house and purchasing articles. The victim made disclosure about it to the complainant and other family members. They tried to pacify her. The victim was abused and assaulted. The complainant and his wife had visited the matrimonial home of the victim and tried to convince them that they are not in a position to fulfill demand of money as they do not have such amount and requested them to give proper treatment to the victim.

3. On 26<sup>th</sup> July 2021 at about 9.30 a.m. the daughter of complainant received call from Swapnil Mehetre ( brother in law of the victim) and she was informed that the victim is injured on account of burns by hot water sprinkled on her body and she has been taken to PMT Hospital for treatment. The complainant and

others visited the hospital and noticed that the victim had suffered burn injuries. She died on 28<sup>th</sup> July 2021. F.I.R. was lodged against husband, father-in-law, mother-in-law, brothers-in-law and sister-in-law. The complainant had suspected that on account of physical and mental torture and assault by the accused, the victim was set on fire and she died due to that. Pursuant to registration of F.I.R. investigation proceeded.

4. Since the applicants apprehend arrest, they preferred application for anticipatory bail before the Court Session. The application at the instance of accused No.4 Ashish Mehetre and accused No.5 Swapnil Mehetre was not pressed. During the course of investigation Nikhil Mehetre, Ashish Mehetre and Swapnil Mehetre were arrested.

5. Applicants in ABA No. 1135 of 2021 are father-in-law and mother-in-law of the victim and applicant in ABA No.1136 of 2021 is the wife of brother-in-law of the victim.

6. Pursuant to the arrest of Swapnil Mehetre and Ashish Mehetre, an application for bail preferred by them. The said application has been allowed by order dated 6<sup>th</sup> October 2021.

7. Learned Advocates for the applicants submitted that the applicants are falsely implicated in this case. The allegations attributed to them are vague. Accused Nos.1, 4 and 5 were arrested. Prime role was attributed to accused No. 1. He is in custody. The allegations of demand of dowry or physical assault, abuses are concocted. The statement of victim was recorded after

the incident which is in the nature of dying declaration, wherein it was stated that victim had suffered burn injuries while she was cooking on *Chulha*. Presence of the applicants at the scene of offence has not been established. There is no evidence to show that the applicants were involved in assaulting or causing burn injuries to the victim on the day of the incident. Custodial interrogation of the applicants is not necessary.

8. Learned A.P.P. submitted that the offence is of serious nature. Investigation is in progress. F.I.R. attributes specific role to the applicants. There was continuous harassment, physical and mental torture at the instance of the accused including the applicants. The incident had occurred within short span of marriage. There was demand of dowry. The dying declaration is suspicious. It runs counter to the documents on record. The incident has occurred in the bedroom, which is evident from the fact that the walls of bedroom were found in burnt conditions. The pieces of Saree of the victim were also found in burnt condition. There is no evidence to show that the victim had suffered burn injuries while cooking. Specific role has been assigned to all the applicants. Brother-in-law of the victim gave call to the daughter of the complainant that the victim had suffered burn injuries on account of hot water which also runs counter to the evidence on record. The call was made by victim to the other daughter of the complainant at the time of incident. The conversation has been audio recorded. The audio clip has been recovered during the course of investigation. On hearing audio clip

of conversation, it can be seen that the victim was shouting at the time of incident. She was being assaulted. The conversation between the victim and accused No.1 has been audio recorded. The participation of the accused is evident from the said audio clip. Statements of witnesses were recorded. The accused were involved in causing harassment and death of victim. The victim was pregnant at the time of incident. Section 315 of I.P.C. is attracted in this case. Investigation is at crucial stage. The victim had suffered severe burn injuries and she died on account of burn injuries. The said fact is evident from the postmortem report.

9. I have perused the F.I.R. and investigation papers produced by learned A.P.P. while adjudicating this application. The F.I.R. has been registered by the father of victim. Dying declaration was recorded while the victim was hospitalized. Dying declaration bears the endorsement that she was in a fit condition to make the statement. However, according to prosecution, the dying declaration is contrary to the evidence on record as the incident had apparently occurred in the bedroom and not in the kitchen. The important question which arises for consideration is that, whether the applicants were involved in the assault or were responsible for causing death of victim.

10. I have perused the spot panchanama and dying declaration as well as postmortem report. The statement of the mother of victim was recorded on 30<sup>th</sup> July 2021. She has alleged that the victim was harassed by the accused. It is also stated that on

26<sup>th</sup> July 2021 her daughter had received call from the victim and the shouts of the victim were heard. She was stating that she should not be assaulted. The audio recording indicated that there was quarrel between the victim and her husband (accused No.1). Similarly the statement of the other daughter of complainant, who had received call from the victim, refers to the nature of conversation between victim and accused No.1 at the time of alleged incident. The conversation, however, does not refer to the involvement of the applicants in the said incident. The statements of other witnesses were recorded. Some of the witnesses have stated that the victim was at the door in a burnt condition. Water was poured to extinguish the fire and there were quarrels between victim and her husband. Statement of the close friend of victim was recorded during the course of investigation, wherein she has disclosed that the victim had informed her that there was harassment from her husband. The allegations reflected therein are not against the applicants.

11. Thus, the call made by the victim to her sister refers to the incident of conversation, act of assault implicating the co-accused and not the applicants. The other witnesses have also referred to the quarrels between co-accused and the victim. The husband and two other accused namely Swapnil Mehetre and Ashish Mehetre were arrested and they have been granted bail by the Sessions Court. The husband of the victim is in custody. While granting regular bail to the co-accused, the learned Additional Sessions Judge had observed that the charge-sheet is filed against

them. On perusal of statements there is no prima facie evidence to show that accused Nos.2 and 3 were present at the place of incident at the time of incident. There is also no prima facie evidence to connect them with the alleged death of victim.

12. In the light of aforesaid factual matrix, the applicants need not be subjected to custodial interrogation and the application can be allowed. Hence, the following order.

### **ORDER**

- (i) ABA No. 1135 of 2021 and ABA No. 1136 of 2021 are allowed.
- (ii) In the event of arrest of the applicants in Crime No.235/2021 registered with Kopergaon City Police Station, District Ahmednagar, the applicants shall be released on bail on executing P.R. Bond in the sum of Rs. 20,000/- (Rupees Twenty Thousand only) each with one or more sureties in the like amount.
- (iii) The applicants shall report the Investigating Officer on 09.11.2021, 10.11.2021 and 11.11.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for.
- (iv) The applicants shall not tamper with the evidence and shall cooperate with the investigation agency.
- (v) The applications stand disposed of.

**(PRAKASH D. NAIK, J.)**