

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

929 BAIL APPLICATION NO.1516 OF 2020

1. DEVIDAS S/O BHIMA CHAVAN
2. VINOD S/O DEVIDAS CHAVAN
3. VIMALBAI W/O DEVIDAS CHAVAN
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Gore Ravindra Vitthal.
APP for Respondent-State : Mr. S. P. Deshmukh.
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CORAM : V. K. JADHAV, J.
DATE : 07.01.2021

PER COURT :-

1. The applicants are seeking regular bail in connection with Crime No.387 of 2020 registered with Kannad City Police Station, District Aurangabad for the offences punishable under Sections 304-B, 498-A, 306, 323, 506 read with Section 34 of IPC. Their application with similar prayer bearing Criminal Bail Application No.1844 of 2020 came to be rejected by the learned Additional Sessions Judge, Aurangabad.

2. The learned counsel for the applicants submits that the investigation is over and charge-sheet has been submitted.

Applicant Nos.1 and 3 are in-laws and applicant No.2 is brother-in-law of the deceased detained in jail in connection with the present crime since 10th and 11th September, 2020. The learned counsel submits that as per the allegations made in the complaint, the deceased was subjected to ill-treatment for the reason that she could not conceive the child. On the basis of the complaint lodged by the real brother of the deceased, the crime came to be registered. The learned counsel submits that during the course of investigation, the statement of the mother of the deceased and the maternal aunt of the deceased namely Laxmibai Chavan came to be recorded wherein both of them have made allegations mainly against co-accused / husband of the deceased. According to them, the deceased had complained to them that her husband used to make a demand about cash amount and he was also demanding the motorcycle. The deceased was subjected to ill-treatment on account of non-fulfillment of the said demand. The deceased had informed to her maternal aunt witness Laxmibai Chavan on her mobile in the same manner. The learned counsel submits that the complaint came to be filed against almost all the family members. Applicants are easily

available for trial. They are ready to furnish the surety. There is no question of tampering with the prosecution evidence. The applicants may be released on bail.

3. The learned APP has strongly resisted the application on the ground that the deceased died within four years of her marriage and she died otherwise than the normal circumstance. The dead body of the deceased was found in the water of the well and her mobile and shoes were found in the bank of the well. There are allegations against the applicants and co-accused / husband of the deceased. All the accused persons, including the applicants, ill-treated the deceased for the reason that she could not conceive the child and therefore the deceased had committed suicide by jumping into the water of the well. The learned APP submits that the presumption under Section 113-B squarely applies to the facts and circumstances of the present case. The applicants may not be released on bail.

4. On going through the allegations made in the complaint and on perusal of the charge-sheet, particularly the statement of mother of the deceased namely Nirmala Rathod and the

maternal aunt Laxmibai Chavan, it appears that the allegations have been made mainly against co-accused / husband of the deceased. The statement of witness Laxmibai Chavan came to be recorded under Section 164 of Cr.P.C. before the Magistrate wherein she has stated that deceased Manisha used to call her on her mobile and informed that she was subjected to ill-treatment by her husband on account of non-fulfillment of the demand for purchasing the motor bike. Even deceased Manisha had informed to her mother witness Nirmala Rathod that her husband used to ill-treat her on account of non-fulfillment of demand for purchasing motorcycle. Though there are general allegations that all the persons from the husband's side giving ill-treatment to the deceased as she could not conceive the child, however, the allegations seems to have been made mainly against co-accused / husband. Thus, considering the entire aspect of the case, I am inclined to release the applicants on bail. Hence, I proceed to pass the following order :

ORDER

1. The application is hereby allowed.

2. Applicant No.1. DEVIDAS S/O BHIMA CHAVAN, 2. VINOD S/O DEVIDAS CHAVAN and 3. VIMALBAI W/O DEVIDAS CHAVAN in connection with Crime No.387 of 2020 registered with Kannad City Police Station, District Aurangabad for the offences punishable under Sections 304-B, 498-A, 306, 323, 506 read with Section 34 of IPC, be released on bail on furnishing P.B. of Rs.20,000/- (Rupees Twenty Thousand only) each with one solvent surety of the like amount each on the following condition :-

a] The applicants shall not tamper with the prosecution evidence in any manner.

3. Application is accordingly disposed off.

(V. K. JADHAV, J.)

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vmk/-