

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

927 ANTICIPATORY BAIL APPLICATION NO.1171 OF 2021

DHANAJI VISHWAMBHAR KHATKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicants :Mr. Abhijit S. More
APP for Respondents: Mr. A.S. Shinde.

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CORAM : PRAKASH D. NAIK J.

DATE : 25th NOVEMBER, 2021.

PER COURT:

1] The applicants are apprehending arrest in crime No. 217 of 2021 registered with Anandnagar Police station, Dist. Osmanabad, for the offence under section 302, 498A, 506 r/w. 34 of IPC.

2] The FIR was lodged on 12.8.2021 by the father of the victim. It is alleged that victim was married to accused no.1 on 28.4.2008. She was ill-treated by her husband. She was subjected to physical and mental cruelty. The FIR was lodged against the husband, mother in law, and two brothers in law. It is alleged that on 11th August, 2021, the victim had called her mother and spoke to her at about 10.00 p.m. Brother in law of the victim gave a call to the son of the complainant and informed him that victim had fallen from the top floor and she has been admitted in the hospital. The complainant visited the hospital and noticed that the victim was dead.

3] The learned counsel for the applicant submitted that the

allegations in the FIR are false. The husband of the victim has been arrested and he is in custody. The applicant No. 1 and 2 are father in law and mother in law. Applicant No.3 and 4 are brothers in law. There is no evidence to support the offence under section 302 of IPC. Marriage was performed in 2008. The allegations in respect of offence under section 498A are concocted. There was no previous complaint.

3] The learned APP submitted that during the course of investigation statements of several witnesses were recorded. Statement of the daughter of the victim was recorded. The statements of neighbours were also recorded. The allegations about harassment are apparent from the statement of complainant and friend of the victim. There were quarrel between the husband and victim.

4] The question is, whether there is any cogent evidence to prima facie show that offence under section 302 is made out. I have perused the investigation papers. The statement of daughter of the victim and accused no.1 was recorded on 13th August, 2021. She is aged about 11 years. She has stated that her mother had fallen from the upper floor. The neighbours came to the spot. The victim was talking on phone. She has also stated that male members were not in the house at the time of the incident. The statement of neighbour also corroborates the version of victim's daughter that other male members were not in the house. Post mortem report indicates injuries sustained by the victim. The opinion about cause of death appears to have been reserved. The statement of friend of the victim mentions that her husband was ill-treating her. However, from the statement of the child and other witnesses, it appears that there is no witness and corroboration to the allegation to prima facie constitute offence under section 302 of IPC. The husband is already in custody.

5] In view of the above, the application can be allowed.
Hence the following order.

O R D E R

i] ABA No.1171 of 2021 is allowed. Interim order dated 7th October, 2021 is confirmed.

ii] In the event of arrest of the applicants in crime No. 217 of 2021 registered with Anandnagar Police station, Dist. Osmanabad the applicants be released on executing PR Bond in the sum of Rs. 20, 000/- each, with one or more sureties in the like amount.

iii] The applicants shall appear before the I.O. as and when called till filing of charge sheet.

iv] The applicants shall not tamper with the evidence.

v] The application stands disposed of.

**[PRAKASH D. NAIK]
JUDGE**

GRT/-.