

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

932 ANTICIPATORY BAIL APPLICATION NO.1253 OF 2021

PARUBAI W/O. PRABHAKAR RATHOD
VERSUS
THE STATE OF MAHARASHTRA
WITH
ANTICIPATORY BAIL APPLICATION NO.1254 OF 2021
KAVITA W/O. VILAS RATHOD
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. S.S. Thombre
APP for Respondents: Mr. V.S. Badakh
Advocate to assist APP : Mr. A.V. Lavte.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 26th OCTOBER, 2021

PER COURT:

1] Both the applicants are apprehending arrest in Crime No.253 of 2021 registered with Majalgaon Rural Police Station, Dist.Beed for the offence punishable under Section 302 read with 34 of Indian Penal Code (in short, 'IPC'). The First Information Report (for short 'FIR') was registered on 11th September, 2021.

2] The case of the prosecution is that the marriage of his daughter was performed in 2010 with Santosh Prabhakar Rathod. Out of the wedlock, two children were born to them. The applicant Parubai Rathod is the mother-in-law of the victim and applicant Kavita Rathod is the wife of brother-in-law of the victim. The ration shop is in the name of father-in-law of the victim. The said ration shop was conducted by Vilas Rathod.

Since last year, the shop was handed over to the husband of the victim for conducting. After noticing that there was good income from the shop, brother-in-law of the complainant Vilas insisted that he should be allowed to conduct the shop. There were disputes amongst them. The victim opposed the demand of Vilas Rathod. The husband of the victim is a simple person. Villas Rathod, Kavita Rathod, Balu Pawar and Parubai Rathod were abusing the victim. Attempts were made to resolve the dispute. On 09.09.2021, the complainant received a call from his daughter and he was informed that the accused had quarrel with her on the issue of shop. The complainant received phone calls from his son-in-law. He was informed that Vilas Rathod, Kavita Rathod and Balu Pawar have visited the house of victim. Thereafter, the husband of the victim gave a call to the complainant and told him to come immediately as the victim has consumed medicine and she is being taken to hospital. The victim was taken to hospital. She was declared dead. The grand-son Aditya had informed the complainant that Vilas Rathod, Kavita Rathod, Balu Pawar and Parubai Rathod had visited their house. They had quarrel with the victim. She was assaulted. Parubai opened the mouth of the victim. Vilas Rathod brought insecticide and forcefully administered it to victim.

3] After the registration of FIR, investigation proceeded. The applicants had preferred applications for anticipatory bail before the

Sessions Court. The said applications were rejected by order dated 5th October, 2021.

4] Learned Counsel for the applicants submitted that the applicants are falsely implicated in this case. The applicant Parubai is a senior citizen aged about 71 years and the applicant Kavita Rathod is a lady aged about 30 years. She is residing at Majalgaon and working at Anganwadi. There is dispute about fair price shop. Custodial interrogation is not necessary. The complainant's son is contrary to the FIR. The husband of the victim has not been impleaded as an accused. He is a witness in this case. Even according to the complainant, the information is that the victim has consumed insecticide was provided to him by the husband of victim. He did not inform him that victim was forcefully administered the insecticide. However, the complainant has alleged that the son of the victim had informed him that the victim was assaulted and administered the insecticide by the accused. The child has been tutored. According to complainant, Santosh (Husband) was present in the house and took victim to hospital. The first hand information received by complainant from Santosh is that victim had consumed insecticide.

5] Learned APP submitted that the offence is registered under Section 302 of IPC. The offence is of serious nature. The accused were involved forcefully administering the poison to the victim. Bottle of insecticide

was recovered from spot. The statement of complainant and witnesses recorded under Section 164 of Cr.P.C. Investigation is in progress. Vilas Rathod and Balu Pawar has been arrested.

6] Learned Counsel for complainant supported submissions of learned APP.

7] I have perused the documents on record. The husband of the victim has not been impleaded as an accused. He was present in the house. The husband was present in the house. He gave information to complainant that victim has consumed medicine. He did not state that it was forcefully administered by accused. Statement of husband of victim, Santosh Rathod was recorded on 02.10.2021. He has stated that, victim and Vilas had quarrel on issue of Ration Shop. On 10.09.2021, there was quarrel. All the accused were talking against her wife (victim). He went inside and slept. All others went inside. His son woke him and informed that victim has fallen outside. He went out and saw victim. No one was near her. Bottle was found near her. He took victim to hospital. He informed complainant that victim has consumed poison. From his statement, it can be seen that, his son did not inform him that accused had administered poison/medicine to victim. The bottle was near the victim. Accused were not present near her. The statement of the complainant and the child witness are contrary to each other.

Considering the factual aspects, the applicant need not be subjected to custodial interrogation. Hence, I pass the following order.

ORDER

- [i] Anticipatory Bail Application Nos. 1253 of 2021 and 1254 of 2021 are allowed.
- [ii] In the event of arrest of the applicants in connection with Crime No. 235 of 2021 registered with Majalgaon Rural Police Station, Taluka Majalgaon, Dist. Beed, the applicants be enlarged on bail on furnishing PR Bond in the sum of Rs. 25,000/- each, with one or two sureties in the like amount.
- [iii] The applicants shall appear before the I.O. on 8th, 9th and 10th November, 2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called by the I.O. till filing of charge sheet.
- [iv] The applicants shall not tamper with the evidence.
- [v] The applications stand disposed of.

[PRAKASH D. NAIK]
JUDGE