

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1237 OF 2020

Anil s/o Vishwanath Bande & another Applicants

Versus

The State of Maharashtra Respondent

Mr. J.M. Murkute, Advocate for the applicants.

Mr. M.M. Nerlikar, APP for respondent.

Mr. G.D. Kale, Advocate for the informant.

CORAM : M.G. Sewlikar, J.

DATE : 29th January, 2021.

PER COURT :

1. By this application, the applicants are seeking anticipatory bail under Section 438 of the Code of Criminal Procedure.

2. The allegations in the First Information Report in nutshell are that the deceased Rahu was the daughter of the informant. The marriage of deceased Rahu was solemnised with Rajkumar on 21.04.2015. It is further alleged that the father-in-law of the deceased i.e. Laxman Gaikwad wanted to mutate his property in the name of the son of the deceased by name Harshwardhan.

Applicant No.1 who is the son-in-law of said Laxman Gaikwad was opposing this mutation. It is further alleged that the husband of the deceased was demanding Rs. 1,50,000/- from the deceased to be brought from her parents for repairing the slab and, on that count, he used to illtreat her physically and mentally. About one year ago, the deceased was mercilessly beaten by her husband. A meeting was held at Haibatpur amongst the Sarpanch, Police Patil and the Chairman of Tanta Mukti Samiti. The husband of the deceased had assured to maintain the deceased well and would not physically assault the deceased. Therefore, the informant sent the deceased for cohabitation. On 18.11.2020, the elder daughter of the informant by name Kalpana Kawade, resident of Udgir, came to the informant at Malkapur and informed him that the said Rajkumar committed murder of the deceased. Thereafter, the informant lodged this report on 18.11.2020 on the basis of which, the offence under sections 302, 304B read with section 34 of the Indian Penal Code came to be registered.

3. Heard Shri Mukute, learned counsel for the applicants, Shri Nerlikar, learned APP for the State and Shri Kale, learned counsel for the informant who is assisting the learned APP.

4. Perused the police papers produced by learned APP. On perusal of the First Information Report and police papers, it is seen that the entire allegations are made against the husband of the deceased. The only allegation against applicant No. 1 (brother-in-law of the deceased) and applicant No. 2 (sister-in-law of the deceased) is that applicant No. 1 was objecting the proposed mutation of the property of the father-in-law of the deceased in the name of the son of the deceased. This cannot be said to be an unlawful demand.

5. Learned APP Shri Nerlikar and learned counsel Shri Kale submitted that there was instigation on the part of the applicants to commit murder of the deceased. Both of them submitted that there was unlawful demand of Rs. 1,50,000/-.

6. There are vague allegations in this respect in the First Information Report. Even from the statements of witnesses, it does not appear that the applicants No. 1 and 2 were making unlawful demand of Rs. 1,50,000/-. Moreover, the allegations are as vague as they could be.

7. Having regard to this, it does not appear that custodial interrogation of the applicants is necessary. Hence the following order:-

ORDER

1. Application is allowed.
2. Applicants No. 1 and 2, in the event of their arrest in connection with Crime No. 431/2020 registered with Udgir (rural) Police Station, Tq. Udgir, Dist. Latur, for offence punishable under section 302, 304-B read with Section 34 of the Indian Penal Code, be released on furnishing PR bond of Rs. 15,000/- each with one solvent surety each in the like amount and on condition that they shall not interfere in the investigation, shall not pressurise the witnesses and shall remain present before the Investigating Officer as and when called upon to do so.
3. Application stands disposed of accordingly.

(M. G. SEWLIKAR)
JUDGE