

Dattarao Kale. Previous marriage of Sanjay Kale had resulted in divorce. The said proposal was suggested by Madhukar Pandurang Awachar, father of the applicant. Victim was ill-treated by the accused. There was demand of money. She was assaulted. The accused were suspecting her character. She was not allowed to talk to complainant and others. On 11.08.2021, the victim had visited the residence of the complainant. She had complained about ill-treatment given to her at her matrimonial home. Since the accused had told the complainant to bring the victim to her matrimonial home, she came back to husband. On 11.09.2021, the father-in-law of victim had informed on phone that victim had fainted and fell down and she had been taken to Hospital for treatment. The complainant was told to visit the Hospital. On reaching there, it was noticed that victim was dead. Father-in-law and mother-in-law ran away from the Hospital. There was swelling on the head of the victim. There was bleeding from her nose and some marks on the body. Postmortem was conducted. The opinion about cause of death was head injury.

3. The applicant had preferred application for anticipatory bail before the Court of Sessions, which has been rejected by the learned Sessions Judge-2, Nanded by order dated 28.10.2021.

4. Learned Advocate for the applicant had submitted that the applicant is lady, she is wife of brother-in-law of victim. She has two minor children aged 8 and 6 years. Husband of the applicant has been

arrested. Husband of the victim is arrested on 12.09.2021. No overt act is attributed to applicant. The applicant is lady. She need not be subjected to custodial interrogation.

5. Learned APP submitted that there are specific allegations against the applicant that she was ill-treating the victim. Incident had occurred within short span after the marriage. The applicant was harassing the victim alongwith co-accused. The offence is of serious nature. The accused had assaulted the victim. The accused are responsible for death of the victim. Postmortem report supports the prosecution case. Belt was recovered from the place of incident. Presumption under the Evidence Act is attracted. Statement of witnesses support the prosecution case.

6. Learned counsel for the complainant has supported the submissions of learned APP. According to him, there is sufficient evidence to show the involvement of the applicant in the crime. The victim was killed by the accused. Applicant and the victim were residing in the same house. Postmortem report opines that death is due to head injury.

7. I have perused the investigation papers. The applicant is a lady having two minor children. Husband of the victim is arrested and he is in custody. Husband of the applicant (brother-in-law of victim) is

arrested and he is in custody. The applicant cannot be subjected to custody merely on the basis of inferences. There is no evidence to show that the applicant was involved in assaulting the victim. From the investigation papers it appears that the victim was assaulted by bat. Case of the prosecution is that she was assaulted by her husband with belt which has caused injury to the victim. Said belt has been recovered from the husband of the victim. He is in custody. While rejecting application for anticipatory bail, the sessions court has observed that since the applicant is one of the family member of accused and victim and resident of same village of maternal uncle of victim, she should be certainly having knowledge about occurrence of incidents of ill-treatment, cruelty and demand for money and she is alleged to have actively participated in commission of offence. There is no evidence that applicant is responsible for death of deceased. The applicant need not be subjected to custodial interrogation.

8. Hence, I pass the following order :-

ORDER

- i. Anticipatory Bail Application No. 1377 of 2021 is allowed;
- ii. In the event of arrest of the applicant in Crime No. 250 of 2021 registered with Hadgaon Police Station, District Nanded, the applicant be released on bail on executing PR bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;

- iii. The applicant shall report the investigating officer on 16th, 17th and 20th December, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of the charge sheet.
- iv. Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)

JPC