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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1085 OF 2021

1] Rahul Rajindranath Khanna
2] Nidhi Sarath Manari

....Applicants.

V/s

The State of Maharashtra and Anr.

..... Respondents.

Mr. Amit Icham i/b Mr. Aashish Satpute for the Applicants.

Ms. A.A. Takalkar, APP for Respondent No.1.

Mr. Milind A. Ingole for Respondent No.2.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 20, 2021

P.C.:-

1] Applicants are seeking pre-arrest bail in Crime No.14 of 2021 registered with CBD Belapur Police Station, Navi Mumbai for the offence punishable under Sections 120B, 498-A, 302, 304, 304-B, 327, 328, 329, 406, 420, 354-A, 354-B, 323, 509, 504, 506, 511 r/w Section 34 of the Indian Penal Code.

2] Applicant No.1 is husband of deceased whereas Applicant No.2 is real sister of Applicant No.1.

3] Applicant No.1 alleged to have married deceased Sonal on 29th June, 2006.

4] It is further claimed in the FIR that that after marriage till her death i.e. 24/5/2020 i.e. for last about 13 years, the said victim was not having any physical relationship with Applicant No.1 as there appears to be differences. It is further alleged in the FIR that cause of death cited in the Death Certificate by the doctor is acute cardiac respiratory arrest. It is claimed that since deceased Sonal was not keeping well, she has executed a Will in favour of the complainant and his sister, thereby ignoring claim of Applicant No.1 in the capacity of husband. It is alleged that Applicant No.1/husband has administered Stiloj-100 which has adversely impacted heart of the victim. It is also alleged that such treatment was given to her for quite a long period so as to ensure her death. It is claimed that Applicant No.1, at times, had assaulted the victim and treated her with cruelty and that being so, Applicant No.1 has to be held responsible for her death.

5] In the aforesaid background, Counsel for Applicants would urge that FIR depicts that for last about 13 years, before the date of registration of crime, there were no husband-wife relations between Applicant No.1 and victim. It is also claimed that various proceedings such as application for grant of divorce initiated by Applicant No.1, D.V. Act complaint at the behest of the deceased demonstrated about matrimonial discord. That being so, Applicants are falsely implicated in crime. My attention is also invited to the registration of Crime No.240 of 2018 against the complainant. It is brought to my notice that sister of Applicant Nos. 1 i.e. Applicant No.2 was married to the complainant and at her behest aforesaid crime against the complainant came to be lodged wherein he is already chargesheeted.

6] While countering aforesaid submission, Mr. Ingole, learned Counsel for the Complainant assisted learned APP and would urge that there is enough material on record to infer prima facie involvement of the Applicants in the offence in question. It is claimed that there is eye witness to the incident of assault, who happened to be sister of the complainant viz. Seema Birthwal. The contents of Will dated

16/5/2020 and the complaints made to the police authorities are relied on so as to establish the claim that before death of victim Sonal, she was subjected to mental and physical harassment. The custodial interrogation of the Applicants is sought to be justified based on contents of FIR and other material brought on record.

7] Considered submissions.

8] The complainant himself has come out with a case that after marriage of Applicant No.1 with deceased Sonal on 29th June, 2006 there was no conciliation for last about 13 years before 2020. It is claimed that in view of matrimonial discord, various matrimonial proceedings are *inter se* pending between the deceased and Applicant No.1 before various courts. Though complainant alleged that Will dated 16/5/2020 executed by deceased Sonal speaks about ill-treatment meted out to her by Applicants that by itself will not justify case of the prosecution for custodial interrogation. It appears from the record that the complainant and the Applicants are at logger head as Applicant No.1's sister who happens to be wife of complainant has lodged police complaint against complainant, resulting into filing of

charge-sheet in Crime No.240 of 2018. The fact remains that certain circumstances which are relied on for alleging involvement of the Applicant No.1 in the offence in question are stale in nature. For not taking up timely action, no convincing explanation is coming forth from the complainant. Apart from above, it is difficult to infer from record that necessary ingredients under Section 302 of IPC are prima facie satisfied as the cause of death is admittedly acute cardiac respiratory arrest. From the contents of the FIR, it is reflected that victim Sonal was taking treatment for her heart ailment. In the aforesaid background, false implication of the Applicants in the offence in question cannot be ruled out.

9] In the result, following order is passed

10] In the event of the arrest of the Applicants, Applicants be released on bail in C.R. No.14 of 2021 registered with CBD Belapur Police Station for the offence punishable under Sections 120B, 498-A, 302, 304, 304-B, 327, 328, 329, 406, 420, 354-A, 354-B, 323, 509, 504, 506, 511 r/w Section 34 of the Indian Penal Code, on execution of P.R. Bond in the sum of Rs 25,000/- each with one or more sureties

in the like amount. Applicants shall neither influence the witnesses in any manner nor tamper with the evidence. Applicants shall attend the Investigation Officer of the concerned Police Station on 22nd, 25th, 27th and 29th October, 2021 and thereafter as and when directed.

(NITIN W. SAMBRE, J.)