

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1767 OF 2021

1. Megha Sagar Yadav
2. Vaishali Murlidhar Modak Applicant

versus

State of Maharashtra Respondent

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- Mr.Mohammed Umar Kazi, Advocate for Applicant.
- Smt.J.S. Lohokare, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 29th JULY, 2021
(Through video conferencing)

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.195/2021 registered with Manpada Police Station, dated 18/04/2021, under sections 306, 498-A, 504, 506 r/w 34 of the Indian Penal Code.
2. Heard Mr.Mohammed Umar Kazi, learned counsel for the Applicant and Smt.J.S. Lohokare, learned APP for the State.

3. The FIR is lodged by one Sandip Dayaram Yadav, in respect of commission of suicide by his daughter Nisha. She was married to Abhishek Modak on 19/03/2019. It was a love marriage. The Applicant No.1 was Abhishek's sister and Applicant No.2 is his mother. In the FIR it is mentioned that Abhishek was addicted to liquor and had other vices. Therefore he was always in need of money. After consuming liquor he used to beat Nisha and used to abuse her. Nisha told this fact to the informant and his wife. On 02/06/2020, Nisha delivered a baby girl. It is alleged that Abhishek and Applicant No.2 started harassing her as they wanted a baby boy. After that, Nisha, Abhishek and Applicant No.2 were residing at Pune. She was always harassed there. Because of that she came back from Pune. She was residing at Piswali. A few days after that, Abhishek also joined her. But in February 2021 he went back to Pune. It is alleged that on 14/04/2021, the Applicant No.1 called the informant's son and told him that Nisha was not listening to them and that he should see what they were going to do. On 16/04/2021 informant's son Vikas called Nisha. That

time Nisha told him that her in-laws were asking to bring her daughter to Pune, otherwise they were threatening to drive her out of her house. On 16/04/2021 Nisha committed suicide by hanging herself. Thereafter this FIR is lodged, though initially it was registered as ADR, afterwards FIR was lodged u/s 306 of IPC and subsequently section 304-B of IPC was added.

4. Learned counsel for the Applicants submitted that main allegations are directed against Abhishek. The Applicants were residing at Pune and there was no direct harassment caused by the present Applicants. He submitted that there is no record of any phone call, which could indicate that both the Applicants were harassing the deceased telephonically. He submitted that the Applicant No.1 has recently delivered a baby and therefore on humanitarian grounds, she can be protected from custodial interrogation.

5. Learned APPP opposed this application. She submitted that Abhishek was already arrested and charge-sheet is filed

against him. Section 304-B of IPC is added. Abhishek as of today is granted bail by the Sessions Court. Learned APP submitted that in the charge-sheet, filed against the Applicants there are statements of many neighbours, who have consistently stated about the harassment caused by both the Applicants to the deceased.

6. I have considered these submissions. The post-mortem notes show that the cause of death was 'asphyxia due to hanging'. After suspicion was expressed by the relatives of the deceased, another post-mortem was conducted and that time also the cause of death was mentioned as 'death due to asphyxia due to hanging'.

7. The next question is whether the Applicants' custodial interrogation is necessary in this case. The charge-sheet filed against Abhishek has consistent statements of many neighbours of Nisha from Piswali, where she was residing. The deceased was telling about her situation to these neighbours. They are Sunil, Mohan, Rahul, Vidya, Yashika etc. Besides them, there is statement of Vikas, who was Nisha's brother. All these

neighbours have consistently stated that Abhishek as well as both the Applicants were pressurizing her to bring money and ornaments and she was frustrated because of this consistent harassment. Therefore at this stage, roles of the Applicants as well as Abhishek is clearly made out. Considering gravity of the offence, on merits I am not inclined to grant protection of anticipatory bail order, to both these Applicants. However, purely on humanitarian ground since the Applicant No.1 has delivered a baby recently, I am protecting her by an order of anticipatory bail on the condition that she fully cooperates with the investigation. Her role described in the FIR is lesser than that of the Applicant No.2. Based on the above discussion, anticipatory bail order cannot be granted in favour of Applicant No.2.

8. Hence, the following order :

ORDER

- (i) Application for Applicant No.2 Vaishali Murlidhar Modak is rejected.

- (ii) In the event of her arrest in connection with C.R.No.195/2021 registered with Manpada Police Station, the Applicant No.1 Megha Sagar Yadav, is directed to be released on bail on her furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant No.1 shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)