

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

ANTICIPATORY BAIL APPLICATION NO.1958 OF 2021

Rohit Rajeshwar Kumar Jain & Ors. Applicants
versus
State of Maharashtra Respondent

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- Mr.Aabad Ponda, Senior Advocate a/w Sharian Mukherji, Advocate for Applicant.
- Mr.Y.M. Nakhwa, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st SEPTEMBER, 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.499/2021 registered with Hadapsar Police Station, under sections 306, 498-A r/w 34 of the Indian Penal Code.

2. The FIR is lodged by Virendra Jain, in respect of suicide committed by his daughter. The Applicant No.1 is the husband of the deceased and the other two Applicants are parents of Applicant No.1. The informant has stated in his FIR that the Applicant No.1 had got married with the informant's daughter

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on 23/11/2008. They were residing in New Delhi. It is alleged that after one month of her marriage, the Applicant No.3 started harassing her on petty issues regarding cooking and household work. It is alleged that in April 2009 there was some incident when allegedly the Applicant No.3 had poured boiling water on her leg. In November 2009 the deceased delivered her first daughter. In 2011 she had her second daughter. From that point onwards all the Applicants started harassing her because they wanted a son.

3. In 2014 when the informant's wife tried to have a telephonic conversation with the deceased, she could not speak properly. She was sent to Mumbai for medical treatment. The FIR mentions that she was treated by Dr.Baharani. It is mentioned in the FIR that she was treated because her mental health was not proper and that she was suffering from depression. It is mentioned that the Applicant Nos.1 and 2 promised to look after her and to take her back to Delhi. The deceased started taking classes and also started doing some insurance work to keep herself busy.

4. In the year 2018 Applicant No.1 got a job in Pune. Therefore they came to Pune. The Applicants and the deceased started residing in Pune. It is alleged that even there, mental harassment to her continued. In June 2018 the informant, who was resident of Mumbai, had gone to Pune to visit his daughter. At that time, she requested the informant to take her back to Mumbai for medical treatment. She was brought to Mumbai and she was treated by a doctor in Mumbai. But because of her daughters' education she returned to Pune. It is alleged that the Applicants were not looking after her and no proper treatment was being provided to her. The FIR mentions that her daughters told the informant that the deceased was not taking her meals regularly and that the Applicant No.3 was frequently harassing her. It was told that the Applicant No.1 was not taking her to dispensary. On 16/12/2020 the informant requested the Applicant Nos.1 and 2 to send the deceased to Mumbai. But they refused and they decided to meet at Lonawala. All of them met there. But the deceased did not tell anything to the informant.

On 24/12/2020 the informant's wife had called the deceased. At that time, she told the informant's wife that she would come to Mumbai on 24/12/2020. However, in the night of 25/12/2020 at about 02.30 a.m. the informant was told telephonically by the Applicant No.2 that the deceased had jumped from their flat on the 7th floor and had committed suicide. The FIR mentions that after funeral, the informant's state of mind was not proper and therefore he had told the police that he would give his statement subsequently. The record shows that the informant lodged his FIR on 03/07/2021.

5. Heard Mr.Aabad Ponda, learned senior counsel for the Applicant and Mr.Y.M. Nakhwa, learned APP for the State.
6. Learned Senior Counsel invited my attention to the copies of medical papers attached to this application. The medical papers show that she was continuously under treatment for mental health issues right from the year 2014. The medical certificates indicate that she was suffering from fear of change, excessive possessiveness, disturbed sleep, excessive thought etc.

She was treated in New Delhi by Dr.Vikas Jain, from the year 2015 onwards. The record shows that in 2019 she was treated at Nityananda Rehabilitation and Residential Mental Health Care Centre, Pune. In short, her health issues continued over a long period and she was disturbed mentally. Learned Senior Counsel submitted that she was being provided proper treatment as can be seen from these prescriptions.

7. He invited my attention to various drafts of agreement exchanged or sent by the informant to the Applicant No.1. Those drafts were pertaining to the agreement for custody of Applicant No.1's daughters. The informant and his wife wanted their custody. The draft also mentioned about making provisions for future of Applicant's No.1's daughters. These drafts were exchanged from January 2021 onwards till about June 2021. It appears that the Applicant No.1 sent an email pointing out that all these agreements will have to be part of Court record. It appears that the agreement were not exchanged further and instead police complaint was lodged. Mr.Ponda therefore

submitted that only on the failure of accused No.1 to execute this agreement, this FIR making all these allegations belatedly was lodged against the Applicant. He further submitted that Applicant Nos.2 and 3 are aged and therefore in any case their custody will not serve any purpose. There were hardly any specific allegations against the Applicant No.1 as well.

8. Learned APP opposed this application. He produced investigation papers before me. The investigation papers contain statement of mother, cousin and aunt of the deceased. Their allegations are on similar grounds as those of the first informant. Their statements are recorded in the month of August 2021. None of these witnesses had approached the police or had made their grievance earlier.

9. The investigation papers also contain statements and certificate of Dr.Vikas Jain. He has stated that the deceased was under his treatment from February 2017 to May 2018 and she was being treated for psychiatric disorder.

10. I have considered these submissions and the material produced before me. It does appear that the deceased was suffering from various mental issues for which she was being treated. The prescriptions indicate that the treatment was being provided to her. Therefore there is substance in the contention of Mr.Ponda that the Applicants did not treat her negligently, instead they were taking good care of her. As rightly submitted by Mr.Ponda, there is a strong possibility that the unfortunate incident of suicide was because of her mental state and not because of the harassment as alleged.

11. The other submissions that the FIR is belatedly lodged, is also required to be taken seriously. The incident had taken place on 25/12/2020 and the FIR was lodged on 03/07/2021. There was no reason for the informant to wait for 7 months to make these allegations. Moreover, in between there were exchange of emails. There are indications that the informant wanted custody of the Applicant No.1's daughters, which could

be another bone of contention between the parties. Taking this overall view, custodial interrogation of the Applicants is not justified. They can be protected by an order of anticipatory bail. They will, of course, have to cooperate with the investigation.

12. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.499/2021 registered with Hadapsar Police Station, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.
- (ii) The Applicants 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.)