

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

ANTICIPATORY BAIL APPLICATION NO.2315 OF 2021

Shantabai Sakharam Kolape Applicant

versus

State of Maharashtra Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.2318 OF 2021**

Machindra Sakharam Kolape & Anr. Applicants

versus

State of Maharashtra Respondent

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- Mr.Chetan Alai, Advocate for Applicants in both ABAs.
- Smt.Veera Shinde, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 27th SEPTEMBER, 2021

P.C. :

1. Both these applications are decided by this common order because they arise out of the same investigation and same registered offence. For the sake of convenience all the Applicants are referred to by their names or relationship.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.351/2021 dated 30/08/2021 registered with Sangvi Police Station, Pune, under sections 306, 323 r/w 34 of the Indian Penal Code.
3. The Applicant Shantabai Kolape is the mother-in-law of the deceased and other two Applicants in Anticipatory Bail Application No.2318/2021 i.e. Machindra Kolape and Kiran Kolape are brothers-in-law of the deceased. The FIR is lodged by one Akshay Shendge, who was brother of the deceased. He has stated that the deceased had got married with Applicant Shantabai's son Shashikant Kolape on 14/06/2019. Before marriage the couple was having love relations since 2016. Both the families with each other's consent agreed for performing the marriage. Initially the deceased was residing with all the Applicants, Shashikant and her father-in-law. In June 2019 Shashikant had seen some post on facebook and had unnecessarily beaten the deceased. The FIR mentions that after

about one month from the marriage, the deceased and her husband had started residing at Pimple Gurav, Pune. The first informant was also working in Pune and therefore he resided with the deceased and Shashikant. It is his case that Shashikant used to suspect her character and therefore used to beat her. The FIR mentions that the deceased had seen some message sent by Shashikant to some girl expressing love for her and therefore there were further quarrels between Shashikant and the deceased. Because of these constant quarrels, Shashikant's father asked the couple to come to Kopergaon. But Shashikant went there alone. Thereafter there was some discussion between the families and it was decided that the deceased and Shashikant should reside separately for some time. She, in that phase was staying with her aunt at Narhe Ambegaon. In February 2020, Shashikant's father passed away and therefore the deceased had gone to their place. Because of lockdown she continued staying there. But there used to be frequent quarrels between the deceased and Shashikant. In January 2021, the Applicants Kiran and Machhindra had called the first informant to their house

and told him that he should take away his sister and that they intended to get Shashikant married to another girl. They told him that in spite of informant's poor financial condition, the Applicants' family had consented to their marriage.

4. After the lockdown was lifted, the couple started residing at Pimple Gurav again. Since 21/08/2021 the deceased was trying to contact Shashikant, but he had left his house and was not reachable. She came to Pune. She found that her husband had taken away his clothes and articles. On 25/08/2021 itself, in the night, the Applicant Kiran called the first informant Akshay to ask about Shashikant, but since Akshay did not know anything he could not answer. He contacted the deceased. The informant was told by the deceased that Shashikant has left the house and could not be contacted. The informant went to the Applicants' house at Kolapewadi. At that time, the Applicants expressed their unhappiness about the deceased and also told him that they had intended to get Shashikant to marry someone else. The informant told all this to

the deceased on 27/08/2021. After that even the deceased was not reachable on telephone. She committed suicide by hanging herself on 28/08/2021. On this basis, FIR is lodged.

5. Heard Mr.Chetan Alai, learned counsel for the Applicant and Smt.Veera Shinde, learned APP for the State.
6. Learned counsel for the Applicants submitted that there are no allegations against any of the Applicants. The couple was residing separately in Pune. The Applicants were not staying with them. He submitted that before the incident the Applicants themselves did not have any conversation with the deceased. It was her own brother, i.e. the first informant, who had told her about their conversation. He submitted that there are no allegations against the Applicants inviting application of section 306 r/w 107 of IPC.
7. Learned APP opposed this application. She produced investigation papers before me. She submitted that considering

statements of the aunt and friend of the deceased as well as the suicide note left behind by her, the Applicants do not deserve sympathy and their anticipatory bail application should be rejected.

8. I have considered these submissions. The statement of the aunt of the deceased recorded on 04/09/2021 basically proceeds on the same line as of the FIR. However, she had added that whenever the Applicant Shantabai used to call the deceased, the deceased used to be under pressure and used to be upset. There is another general statement that all the Applicants used to call her telephonically and used to harass her. She has stated that on 27/08/2021 the deceased had told her that she was afraid that her in-laws would take steps to separate the deceased and her husband Shashikant.

9. Another witness Ankita was friend of the deceased. She has spoken about the dispute between the couple. She has referred to Shashikant's behaviour, as he used to suspect

character of the deceased. She has also stated that the Applicants used to quarrel and used to cause harassment.

10. I have also perused the suicide note.

11. As far as the submissions of learned counsel of the Applicants are concerned, those submissions have considerable force. The FIR as well as the statements of aunt and friend of the deceased do not point out any specific act committed by any of the Applicants. There is no demand of dowry as such. It was a love marriage. The allegations are that the Applicants were not happy with the marriage and had told the informant that they intended to get Shashikant married to someone else. This conversation was not between the deceased and the Applicants themselves on the date of incident. This was told to the deceased by the first informant. Otherwise there are vague allegations about the Applicants calling the deceased and harassing through telephonic conversation. The FIR and statements thus show that there was trouble between marital

relationship between the deceased and her husband. By consent and suggestion of the families including the Applicants, it was decided that Shashikant and the deceased should stay separately for some time. It was done to help the couple to get over their differences. This was done at the behest of both the families. Therefore the Applicants cannot be blamed for that. The basic allegations are against the husband of the deceased.

12. The suicide note particularly elaborates as to how the deceased was in love with Shashikant and how he changed his behaviour after marriage. There is some reference to the Applicant Shantabai that she and her family did not really accept the deceased in their family. Except this, the allegations are made against Shashikant.

13. Taking overall view of the material available, it does appear that since Shashikant was not reachable to her for 4 to 5 days, that was the immediate cause for the deceased to take this extreme step. The allegations against the Applicants are not

specific. They were staying separately from the deceased. In this view of the matter, custodial interrogation of the Applicants is not necessary. They can be protected by an order of anticipatory bail.

14. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.351/2021 dated 30/08/2021 registered with Sangvi 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.
- (iii) Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)