

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) NO.275 OF 2021

(Pankaj s/o Subhashchandra Chittarka and others Vs. State of Maharashtra thr. PSO
PS Risod, Dist. Washim)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. Mahesh Rai, Advocate for Applicants.
Mr. M.K. Pathan, APP for Non-Applicant State.

CORAM: ROHIT B. DEO, J.

DATE: 3rd MAY, 2021.

Heard.

2. The applicants are apprehending arrest in Crime 177/2021 registered with Police Station Risod, District Washim for offences punishable under Sections 306, 304-B, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3. Applicant 1 Pankaj is the brother and applicant 3 Subhashchandra the father of co-accused Nilesh, whose wife died in unnatural circumstances within seven years of the marriage. Applicant 2 Sau. Anjana is the wife of applicant 1 Pankaj.

4. Nilesh and the deceased married on 29.01.2015. According to the learned counsel Mr. Rai since Nilesh is an

Engineer and is serving at Pune, the couple resided at Pune and it was only in view of the pandemic that the couple shifted to Risod in late 2020. Mr. Rai would submit that the allegations levelled by the brother of the deceased in the report dated 24.03.2021 are indeed serious, however, the allegations are primarily if not entirely, against the co-accused Nilesh. Mr. Rai would submit that there is no specific role attributed to applicants 1 and 3 in the report and the only role attributed to applicant 2 Sau. Anjana is that on one occasion she physically assaulted the deceased, who was the sister of the informant.

5. While the report alleges that the informant's sister was murdered and there is an attempt to cover up, at this stage, the material on record would *prima faice* indicate suicidal and not homicidal death. The learned APP Mr. Pathan fairly does not dispute that at this stage the material seems to suggest a suicidal death rather than homicidal death.

6. The report indeed levels extremely serious and grave allegations of persistent ill-treatment, and inhuman conduct, stemming from dissatisfaction with the dowry given. Whether Section 304-B of the IPC is attracted in the sense that the alleged cruelty was proximate in time to the death or that there was such live connection as would indicate that the deceased was ill-treated soon before her death in connection with dowry demand, is a matter of trial.

However, while allegations are extremely grave, Mr. Rai is not entirely unjustified in submitting that the sordid role is attributed substantially, if not entirely to co-accused Nilesh. It does appear that the couple, by and large resided at Pune and would have continued to live there but for the out break of the pandemic.

7. In so far as applicant 2 Sau. Anjana is concerned while there is a reference to physical assault of one occasion, there is no material on record to indicate that the alleged ill-treatment meted out by Sau. Anjana was consistent and persistent and was soon before the death as would bring the provisions of Section 304-B of IPC into play or as would suggest that she drove the deceased to commit suicide.

8. The applicants do not have any adverse antecedent and there does not appear to be any risk of the applicants avoiding or evading the process of law.

9. The applicants, are entitled to pre-arrest protection.

10. In the event of arrest in Crime 177/2021 registered with the Police Station Risod, District Washim for offences punishable under Sections 306, 304-B, 498-A, 323, 504 and 506 read with Section 34 of the Indian Penal Code, the applicants shall be released on furnishing personal bond

of Rs.25,000/- each with a surety of like amount. Considering the prevailing situation, surety may be furnished within four weeks.

11. The applicants shall attend Police Station Risod, District Washim every Saturday till the filing of the charge-sheet and shall co-operate with the Investigating Officer.

12. The applicants shall not make any attempt to influence the witnesses or tamper with the evidence.

13. The applicants shall not leave the country without permission of the jurisdictional court.

14. The application is disposed of.

JUDGE