

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

CRIMINAL APPLICATION (BA) 816 OF 2021

(Nirmala Vijay Tayde..vs.. State, thr PSO, PS Pinjar, Tq. Barshitakli, Dist. Akola)

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

Court's or Judge's orders.

Mr. S.V. Sirpurkar, counsel for applicant.
Mrs. K.R. Deshpande, APP for non-applicant/State.

CORAM: ROHIT B. DEO, J.
DATE:18.08.2021.

Heard.

2. The applicant is seeking bail in connection with Crime 200/2020, registered with Police Station Pinjar, Dist. Akola, for offences punishable under sections 302, 498-A read with section 34 of Indian Penal Code.

3. Unfortunately, the daughter-in-law of the applicant died due to consumption of poison, while she was hospitalized.

4. The brother of the deceased lodged report dated 29.10.2020 that he received call from the deceased on 19.10.2020 expressing an apprehension that she would be killed by her matrimonial family. The next day the

informant received a message that his sister was hospitalized due to poisoning. The report alleges that on 23.10.2020, the deceased gained consciousness during the course of which she disclosed that her husband, father-in-law and the applicant forcibly administered her poison on 20.10.2020.

5. The co-accused Vijay, who is the husband of the deceased is released on bail by this Court (Coram: Shri Vinay Joshi, J.). It is observed by the coordinate Bench thus:

“7. Pertinent to note that the medical papers bears the history disclosed by brother of victim on 26.10.2020 is mere of poisoning. The submission that though the informant and his relatives learnt about administration of poison on 23.10.2020, they had not disclosed the same, bears substance.

8. Learned A.P.P. has relied on prior complaint of the victim dated 07.03.2020 against her husband and in-laws. The said prior complaint would at the most disclose matrimonial harassment. Though the container/bottle of poison was found in the house of the accused, that may support the defence of suicide by poisoning. The police have only once on 20.10.2020 took opinion of the Medical Officer that the victim was not fit for giving dying declaration. During next 8 days, no such effort was made, which supports

the submission advanced by the defence. Besides three oral dying declarations allegedly made to nearer relatives, there is no other material. Prima facie no explanation is advanced about non recording of the written dying declaration, despite the victim was allegedly conscious on 23.10.2020, and then survived for next 6 days. Having regard to all these circumstances, and considering the allegations particularly against the applicant – father-in-law, he can be released on bail”.

6. It is not disputed that the applicant is similarly situated.

7. For reasons recorded by this Court while granting bail to Vijay and on the principle of parity, the applicant is entitled to bail.

(i) Criminal Application is allowed and disposed of.

(ii) The applicant /accused Nirmala Vijay Tayde be released on bail in connection with Crime No.200/2020 registered with Police Station Pinjar, District Akola for offence punishable under Sections 302, 498-A read with Section 34 of the Indian Penal Code, on her furnishing P.R. Bond of Rs. 25,000/- with one or two sureties in the like amount.

(iii) The applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

Judge

Belkhede