

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.22 OF 2022

MOHINI @ MONIKA W/O MADHUKAR DHOLE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. N. V. Gaware and Mr. Z.H.Farooqui
APP for Respondent-State : Mr. N. T. Bhagat
Advocate for Assist to APP : Mr N. B.Narwade

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**WITH
CRIMINAL APPLICATION NO.136 OF 2022
IN ABA/22/2022**

SANJAY BAPU DIVATE
VERSUS
MOHINI @ MONIKA W/O MADHUKAR DHOLE AND ANOTHER

.....

Advocate for Applicant : Mr N. B.Narwade
APP for Respondent No.2-State : Mr. N. T. Bhagat
Advocate for Respondent No.1 : Mr. Mr. N. V. Gaware and Mr.
Z.H.Farooqui

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CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving the Order :
21-01-2022**

**Date of Pronouncing the Order :
01-02-2022**

ORDER :

1. Criminal Application No.136 of 2022 has been filed for assist to learned APP. Said application is allowed and disposed of.

2. In ABA No.22 of 2022, the applicant is apprehending her arrest in connection with Crime No.491 of 2021, registered with Belwandi Police Station, District Ahmednagar, for the offence punishable under Section 498A, 306, 304B, 323, 504 read with 34 of the IPC.

3. Heard learned Advocate Mr. N. V. Gaware and Mr. Z. H. Farooqui for applicant, learned APP Mr. N. T. Bhagat well assisted by learned Advocate Mr. N. B. Narwade, for respondent-State.

4. It has been vehemently submitted on behalf of the applicant that the applicant is the married sister-in-law of the deceased. She has been falsely implicated with ulterior motive that every family member from the house of husband should be put behind bar. The applicant got married to Madhukar Dhole on 10-05-2015, who since prior to the date of marriage, was serving as Production Engineer at Dubai. After the marriage, the present applicant joined her husband at Dubai. She was hardly in touch with deceased. As per the FIR which has been lodged by the father of the deceased, the marriage between deceased Pooja was performed with the brother of the applicant on 19-12-2020. It has been contended that the present applicant had gone to her parental house i.e. the matrimonial home

of Pooja after Diwali festival of 2021, that means, prior to that she was not residing there. Further, even if for the sake of arguments it is accepted that she had gone for Diwali for celebration with her parents, that does not show that she had gone there for permanent residence. It is then stated that the applicant was harassing Pooja mentally and physically by saying that deceased was unable to conceive and she is not properly cohabiting with her husband. Pooja committed suicide on 08-12-2021. Taking into consideration these allegations, the physical custody of the applicant is not required at all. The petitioner is having daughter aged two and has her own family to take care. The applicant is ailing and is taking treatment at Aurangabad. She is ready to abide by the terms of the bail.

5. Per contra, the learned APP Mr. N. T. Bhagat, well assisted by learned Advocate Mr. N. B. Narwade for the informant, strongly objected the application and submitted that the applicant is also one of the accused who had instigated Pooja to commit suicide. All the accused had with common intention physically and mentally harassed deceased, due to which the deceased was forced to commit suicide within one year of the marriage. The accused persons were demanding amount of Rs.50,000/- under the pretext that they have

been affected by CORONA-19 Virus, and then they demanded amount of Rs.1,50,000/- for purchase of four wheeler. The other accused persons have been arrested, only the present applicant is remaining. Her physical custody is required for the purpose of investigation.

6. At the outset, it is to be noted that the present applicant is the married sister of the husband of the deceased and there is no dispute about the said fact. The applicant has produced on record the marriage certificate to show that she got married in the year 2015. There are also documents to show that her husband is serving in Dubai. She has a passport. The entries on passport would show that she was going off and on to Dubai. From those immigration stamps, it can be seen that she had come to India somewhere prior to Diwali of 2021. Even if we consider the wordings those have been used in the FIR, it states that she had come to the house of Pooja for celebration of Diwali. There is no statement that after Diwali also the present applicant continued to stay in the matrimonial home of Pooja. Another fact to be noted is that the marriage of Pooja was performed on 19-12-2020 and it is stated that in Diwali 2021 i.e. in the month of October, the married

sister is saying that she has not begotten child. This appears to be strange. The police papers do not show that on the day of incident i.e. 08-12-2021, the present applicant was present in the matrimonial home of Pooja. Under this circumstance, it is less likely that offence under Section 306 and 304B of IPC can be said to have been made out against the present applicant. The physical custody of the applicant is not necessary for the purpose of investigation. However, taking into consideration the fact that the present applicant has passport and it should not be a hindrance in the investigation, stricture conditions are required to be imposed, because at this stage also we are required to get assurance from the applicant that she would be available for the purpose of investigation as well as at the time of trial. Proper condition to impose on her is to ask her to seek permission of this Court till filing of the charge-sheet, or Additional Sessions Judge, after the filing of the charge-sheet, in advance, whenever she wants to travel abroad. With these directions, following order is passed.

ORDER

- 1) Criminal Application No.136 of 2022 for assist to APP is allowed and disposed of.
- 2) ABA No.22 of 2022 is hereby allowed.

3) In the event of arrest of applicant Mohini @ Monika w/o Madhukar Dhole, in connection with Crime No.491 of 2022, registered with Belwandi Police Station, District Ahmednagar, for the offence punishable under Section 498A, 306, 304B, 323, 504 read with 34 of the Indian Penal code, she be released on P.R. of Rs.50,000/- (fifty thousand) with one or two sureties of like amount.

4) Applicant to seek permission of this Court till charge-sheet is filed, and after charge-sheet to take permission of the Additional Sessions Judge, in advance, whenever she wants to travel abroad.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-