

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.260 OF 2022

RADHA W/O RAMESHWAR KADAM
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Shinde S. S.
APP for Respondent-State : Ms. Vaishali Patil Jadhav

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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 22-03-2022

ORDER :

1. The applicant is apprehending her arrest in connection with Crime No.22 of 2022, registered with Tamalwadi Police Station, Taluka Tuljapur District Osmanabad, for the offence punishable under Section 306, 504, 506 r.w. 34 of IPC.
2. Heard learned Advocate Mr. S. S. Shinde for applicant and learned APP Ms. Vaishali Patil Jadhav for respondent-State. In order to cut short, it is stated that both of them have made submissions in support of their respective contentions.
3. The FIR has been lodged by one Kusum Hanumant Waikar who is the mother of the deceased Vithal. In the nutshell she has stated that her son Vithal had taken loan from his friend Shashi Kadam who is the

son of present applicant. When earlier loan was taken it was repaid along with interest. Thereafter, again loan of Rs.2 lakh was taken and it is stated that they were paying interest of Rs.10,000/- per month. Vithal could not repay the amount as his Soybean crop got damaged. Informant then says that said Shashi Kadam and his parents were insisting Vithal that he should repay the amount. On 29-01-2022 Vithal had received phone call from Shashi and he had stated that if he failed to repay the amount, he would be paraded naked in Tuljapur. Vithal went to his field and did not return back. At about 07.30 p.m. Shashi Kadam and his parents i.e. present applicant and her husband went to the house of informant and the applicant had asked as to where Vithal is, and it was told to them that he has gone to field and he has not returned. Thereafter, applicant had abused in filthy language and threatened that if the amount is not given, then the ladies from the house of informant should be taken to applicant's house for work and by that way the amount would be recovered. Even the son and husband of the applicant had given threat and left the house. Informant says that she had asked her another son to get Vithal back and then they had searched for him, but Vithal did not return at night time. On 30-01-2022 the neighbour was asked to search for Vithal and then he told

that Vithal has done something to him in the field. The informant went to field around 10.30 p.m. and found Vithal lying on the ground and his face was covered with sticky water. He had expired. Matter was reported to police. Police came, inquest panchanama was done, and it appears that even postmortem was done. After the funeral, on the second day the FIR has been lodged.

4. As regards the role attributed to the applicant is concerned, it is stated that she was insisting along with her son Shashi Kadam that Vithal should return the amount. As regards those allegations are concerned, it is stated that even the husband of the applicant was also insisting, but no specific dates and manner in which the insistence was there has been stated, but thereafter, incident is in respect of applicant, her husband and son going to the house of the informant at about 07.30 p.m. on 29-01-2022. The narration of that incident appears to be that Vithal was not present in the house at that time but the applicant had then abused the informant. Under such circumstances, when he was not present on 29-01-2022 and also did not return to home, whether this action amounts to an abetment as contemplated under Section 107 or 306 of IPC, will have to be considered. The main allegations appear to be as

against the son who had alleged to have given loan of Rs.2 lakh to Vithal.

5. Statements of the witnesses recorded up till now are also on the same line of the FIR and except the role attributed of giving threat, that too with informant, they have not stated any further act. The papers those have been made available do not contain post mortem report and not even the provisional cause of death. Further, in the police papers, there is a statement by one Dnyaneshwar Popat Waikar who appears to be the cousin brother of deceased Vithal. He has stated that when he had gone to field on the phone call of informant, he found Vithal was lying under a tree on 30-01-2022. They could find one insecticide bottle, and therefore, he informed the said fact to the police. He has stated that due to the indebtedness, his brother would have committed suicide and they have no complaint to make against anybody. This statement has been treated as Accidental Death under Section 174 of Cr.P.C., and the further investigation appears to have been carried out. Therefore, possibility of concoction of the story cannot be ruled out.

6. This Court has granted interim protection to the applicant on 07-03-2022, that deserves to be confirmed, accordingly it is

confirmed. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) The interim protection granted by this Court on 07-03-2022 to the present applicant is hereby confirmed. In other words, in the event of arrest of applicant Radha w/o Rameshwar Kadam, in connection with Crime No.22 of 2022, registered with Tamalwadi Police Station, Taluka Tuljapur District Osmanabad, for the offence punishable under Section 306, 504, 506 r.w.34 of the IPC, she be released on PR of Rs.30,000/- (thirty thousand) with two sureties of Rs.15,000/- each.
- 3) She shall not tamper with the evidence of the prosecution in any manner.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.