

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.278 OF 2022

PARVATI W/O TATYARAM GARAD

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. A. G. Ambetkar

APP for Respondent-State : Mr. V. M. Kagne

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CORAM : SMT.VIBHA KANKANWADI, J.

DATE : 25-03-2022

ORDER :

1. The applicant is apprehending her arrest in connection with Crime No.46 of 2022, registered with Pathardi Police Station, Taluka Pathardi District Ahmednagar, for the offence punishable under Section 306, 498-A, 323, 504, 506 r.w. 34 of IPC.
2. Heard learned Advocate Mr. A. G. Ambetkar for applicant and learned APP Mr. V. M. Kagne 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. Present applicant is the mother-in-law of the deceased. FIR has been lodged by one Nagurao Sheshrao Aher - father of the deceased. His daughter Geeta got married to the son of present applicant about 12 years ago prior to the FIR. The informant states that his daughter was residing with her husband and parents-in-law. She was treated properly for about two years, and thereafter, the in-laws and husband started saying that they are heavily indebted, and therefore, she should bring amount of Rs.50,000/- from her father. Geeta used to tell them that since her parents are poor, they will not be able to give that amount. Her husband and in-laws used to assault her and abused when she used to say these things to them. Geeta used to convey all these facts to her parents but the parents used to give her advise as there was hope that she would be treated properly after birth of child. Geeta had daughter aged 10 and son aged 6 at the time when she expired. The informant says that even after the birth of the children, husband and in-laws used to insist that she should bring amount of Rs.50,000/-. When she failed to fulfill that demand, she was abused, assaulted, kept starving. Even two years prior to the incident, when she was harassed, the informant and his family members had gone to the matrimonial home of Geeta and persuaded the in-laws. According to the

informant, Geeta's mother-in-law i.e applicant had called him at 10.00 p.m. on 17-01-2022 and told that they should take Geeta back to their house, and this fact was told by the informant's wife to informant at 07.00 a.m. on 18-01-2022. Thereafter, at about 07.30 a.m. son-in-law gave phone call and asked as to whether Geeta has come to their house. Informant told him that she has not come. The son-in-law told the informant that Geeta is missing since 03.00 a.m. Informant asked son-in-law as to where he was at that time. He told that he was sleeping outside. Thereafter, informant and his wife went to matrimonial home of Geeta around 10.30 a.m. They came to know that Geeta expired by falling in the well owned by one Namdeo Gahininath Bade. After the post-mortem was done, the dead body was given to informant and before she could be cremated, the FIR has been lodged.

4. The police papers show that the inquest panchanama was done and the post-mortem report has been collected. Column No.17 shows four injuries which are in the nature of lacerated wounds, that too on the face part. The internal examination shows that there was under-scalp hemorrhage on right parietal region of head as well as occipital region. But then in Column No.18 (a) it is stated that

whatever injuries have been noted in column No.17, they are post-mortem injuries. The probable cause of death has been given as drowning, however final opinion has been reserved as the viscera was sent for chemical analysis. Statements of witnesses have been recorded which appear to be mostly of the informant's relatives. They all are consistent in shaying that there was illegal demand of Rs.50,000/-. Surprising to note that there was no increase in the alleged illegal demand within 12 years. The first demand as per the FIR as well as the statements of witnesses was made after two years of marriage and it is stated that it was consistent for about 10 years. Statement of the children i.e. son and daughter of deceased appear to have not been recorded at all. The consistent harassment could only lead to the cruelty as contemplated under Section 498A of IPC. Here, the prosecution is required to explain as to what kind of treatment was given all through 12 years of duration. Another fact is that two children were born and at the time of death of Geeta, daughter was ten years old and the son was six years old. It has been tried to be stated that the present applicant who appears to be an illiterate lady is stated to have given phone call to the mother of the deceased i.e. the wife of the informant and told at about 10.00 p.m. on the earlier day that Geeta should be taken back by them,

and thereafter, the applicant is stated to have put down the phone. Why the fact was not considered serious by the informant and his wife, is a question. If the fact was serious enough, they could have immediately reacted to that. The mother of the deceased had not immediately called back to ask as to what has happened and why the present applicant told her that she should take deceased back. At present the statements on record do not show that there was any kind of abetment by the present applicant to the deceased and also the circumstances do not appear prima facie that the deceased was left with no option but to commit suicide. Under such circumstances, the interim protection granted earlier deserves to be confirmed as the case is a fit case where the discretion of this Court under Section 438 of Cr.P.C. should be exercised. Hence, following order.

ORDER

- 1) Application stands allowed.
- 2) The interim protection granted by this Court to the applicant on 10-03-2022 is hereby confirmed. In other words, in the event of arrest of the applicant Parvati w/o Tatyaram Garad, in connection with Crime No.46 of 2022, registered with Pathardi Police Station, Taluka

Pathardi District Ahmednagar, for the offence punishable under Section 306, 498A, 323, 504, 506 r.w.34 of IPC, she be released on PR Bond of Rs.30,000/- with two solvent sureties of Rs.15,000/- each.

3) The applicant shall not tamper with the evidence of the prosecution in any manner.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.