

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

908 ANTICIPATORY BAIL APPLICATION NO.401 OF 2022

1. TATYARAO KHANDERAO SHINDE

2. KAMALBAI TATYARAO SHINDE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicants: Mr. Nilesh S. Ghanekar

APP for Respondent: Mrs. V. N. Patil-Jadhav

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CORAM: SARANG V. KOTWAL, J.

DATE: 09th JUNE, 2022

PER COURT:

1. The applicant no.2 is seeking anticipatory bail in connection with C.R.No.56/2022 registered at Waluj Police Station, Aurangabad City under Section 304-B, 306, 498-A, 504, 506 read with Section 34 of the Indian Penal Code, 1860. This application was filed by applicant no.2 along with her husband applicant no.1 – Tatyarao. During pendency of this application, applicant no.1 was arrested and the order dated 05.04.2022 passed by the coordiante Bench (Coram: Smt. Vibha Kankanwadi, J.) recorded that the application on behalf of applicant no.1

has become infructuous. Interim order was granted in favour of applicant no.2 on that day.

2. Today, I have heard the learned Counsel for both the parties. The prosecution case is about suicide committed by the informant's daughter. The F.I.R. is lodged by one Ramchandra Bhausahab Manal. He has stated that his daughter was married to the applicant no.2's son on 17.12.2020. Initially, for a period of two years she was treated properly. After that, whenever the deceased used to visit her parental house she used to complain that her husband, the applicant no.1 who was the father-in-law and applicant no.2 who is the mother-in-law used to abuse and assault her. They used to demand Rs.7,00,000/-. She was not given proper food. On one occasion, the husband gave serious threat in front of the informant. On 13.02.2022, the informant sought permission from the applicant no.2's husband to take the deceased to his house. She was allowed to go with the informant. On 22.02.2022, the applicant no.2 and her husband – applicant no.1

came to the informant's house. At that time, the deceased categorically told everybody that she was not willing to reside with the applicants. At that time, the applicant no.1 – the father-in-law told her that, if, she wanted to reside separately, they would get their son married to someone else. The applicants returned back. On 23.02.2022, the same conversation was repeated on telephone. After that, according to the informant's case, the deceased herself told him that she wanted to go back to her matrimonial house at Aurangpur Harsuli. Therefore, on 25.02.2022, the informant and his other relatives took the deceased to that house. Since then, the deceased was residing with the applicants. On 01.03.2022, the deceased committed suicide by jumping in a well. After that, this F.I.R. is lodged.

3. Learned Counsel for the applicant no.2 submitted that the husband of the deceased and the applicant no.1 – father-in-law were arrested and both of them were granted regular bail. As far as the present applicant no.2 is concerned, there are

no specific instances alleged against her, though, there are allegations that she along with her husband caused harassment to the deceased. He submitted that in the background of these vague allegations, the applicant no.2's custodial interrogation is not necessary.

4. Learned APP submitted that the incident had taken place within 7 years of marriage and therefore the presumption operates against all the accused including the present applicant. She submitted that it is obvious that because of the harassment caused to the deceased she has committed suicide and therefore anticipatory bail should not be granted to the applicant no.2. Learned APP produced investigation papers before me.

5. I have perused the investigation papers. They contain statements of other witnesses who are family members of the deceased, Viz. her brothers, parents, cousins etc. All of them have stated the same facts which are mentioned in the F.I.R.

6. The F.I.R. and the witnesses have stated that, when she went to her parental house she expressed her resolve not to go back to reside with the applicants and yet it appears that she was taken to their house on 25.02.2022. Very shortly, thereafter, on 01.03.2022, she committed suicide. Therefore, it appears that the main cause of suicide was her residing together in that house against her wish. When the interim relief was granted to the applicant no.2, it was observed that the F.I.R. is silent about what transpired between 25.02.2022 to 01.03.2022. The investigation does not throw light on that. Therefore, the allegations against the present applicant no.2 does not travel beyond 498-A of the Indian Penal Code, 1860. There are general allegations against the applicant no.2. However, this needs to be tested during trial. At this stage, taking into account these aspects, the interim anticipatory bail granted in her favour in April 2022; can be confirmed. The other

accused are already granted regular bail. For investigation purposes, the applicant no.2's custody is not necessary.

7. The offences under Section 304-B and Section 306 of IPC are undoubtedly serious; but in that respect, the important period was between 25.02.2022 to 01.03.2022. It is not the case of the prosecution that she was restrained from telephonically establishing contact with her parents. The prosecution case does not throw light on what transpired during that period. Therefore, only for consideration of anticipatory bail I am inclined to give benefit to the applicant no.2. All these questions are left open to be decided during trial. Hence, the following order-

ORDER

[I] In the event of her arrest in connection with C.R.No.56/2022 registered with Waluj Police Station, Aurangabad City, the applicant no.2 is directed to be released on bail on her furnishing P.R.bond in the sum

of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties in the like amount.

[II] The applicant no.2 shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

[III] Application stands disposed of accordingly.

[SARANG V. KOTWAL, J.]

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