

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.710 OF 2022

VYANKATI MUNJAJI MOHITE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Sudarshan J. Salunke
APP for Respondent – State : Ms. V. S. Choudhari
...

CORAM : S. G. MEHARE, J.

DATE : 14-06-2022

PER COURT :-

Heard the learned counsel for the applicant and the learned APP for respondent/State at length.

2. Applicants are seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure in connection with Crime No. 0068 of 2022 dated 06.05.2022 registered with Police Station Tadkalas, District Parbhani, for the offences punishable under Sections 306, 498-A and 323 read with Section 34 of the Indian Penal Code.

3. It has been alleged in the first information report that the deceased married the son of applicant no.1 on 20.4.2017 and delivered a male child before three years. She was treated well for

about one year; however, the husband of the deceased intended to purchase a tractor. Therefore, he was forcing the deceased to bring Rs.2,00,000/- from her parents. The parents told and convinced the family members of the applicants that they are poor and unable to fulfil the demand of Rs.2,00,000/-. The deceased was also convinced to stay with her family. Then she was taken to her parent's home because of ill-treatment at the hands of applicants. Then, the matter was tried to be settled, but the demand of Rs.2,00,000/- was continued. The incident happened on 29.04.2022. The deceased committed suicide by hanging herself on the fan with her saree. There have been the allegations that all the accused together tortured the deceased mentally and physically for the demand of dowry. Hence, she has committed suicide.

4. Learned counsel for the applicant would submit that the applicants have no role to play in the dispute between husband and wife. There used to be quarrels between husband and deceased wife on the reason of delay in preparation of tiffin for husband. The husband assaulted the deceased. At that time, they were in a separate room. Though the injuries were seen on the person of the deceased, the applicants have not played any role, much less they never demanded money as alleged. The report

was lodged after seven days after the incident; therefore, it is an afterthought case. Nowadays, family members are easily implicated in matrimonial offences. Applicants no. 1 and 2 are senior members, and they never demanded the money as alleged. Applicants no. 3 and 4 are the brother and sister-in-law of the husband of the deceased. Nothing is to be recovered and discovered from them. They are ready to cooperate with the Investigating. The husband is behind bars, and so-called weapon is also recovered. Therefore, he prayed to allow the application.

5. Learned APP for the respondent /State would submit that a serious offence has been committed by the husband and applicants with common intention. The deceased was continuously tortured mentally and physically and compelled to commit suicide. The offence committed is not only against the deceased, but it is also against society. The injury marks on the person of the deceased is a self speaking evidence to believe that she was tortured physically and mentally.

6. While considering the bail application, the gravity of the offence and the role played by each of the accused should be considered. The facts of the case reveal that the incident happened around seven years after the marriage of the deceased.

She (deceased) has a child of three years old. The applicants came with a positive case that there was a dispute between husband and wife on the delay in preparing the tiffin. The discovery and recovery is another factor to be considered while dealing with the bail application. If the recovery is not required, then the Court should think the matter otherwise, along with the role played by the persons claiming bail.

7. Having regard to the allegations levelled in the FIR, there appears no direct role played by the applicants in demanding the money, and nothing is to be recovered and discovered from them. No doubt, the offence is serious, and the father has lost his daughter. But, the investigation has its own way and is to be conducted within the four corners of the law. Even if the bail is declined, there will be nothing to recover and discover from the applicants. Under the circumstances, this Court is of the view that the discretion under Section 438 of Cr.P.C., may be exercised in favour of the applicants.

8. Hence, the following order -

- I) Application is allowed.
- II) In the event of arrest of the applicants (1) Vyankati Munjaji Mohite, (2) Padmin Vyankati Mohite, (3)

Ramkishan Vyankati Mohite and (4) Pooja Ramkishan Mohite, shall be released on PR of Rs.20,000/- each with one solvent surety in the like amount each, in connection with Crime No. 0068 of 2022 registered with Tadkalas Police Station, District Parbhani, for the offences punishable under Sections 306, 498-A, and 323 read with Section 34 of the Indian Penal Code, on the condition that they shall attend the police station as and when called on written notice by the Investigating Officer.

III) *Hamdast* allowed.

(S. G. MEHARE)
JUDGE

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