

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1121 OF 2022

SHOBHA W/O. RAMESHWAR BARADE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Sohail Subhedar h/f.
Mr. Nilesh S. Ghanekar

APP for Respondent No.1/State: Mr. P. K. Lakhotiya
Advocate for Respondent No.2 : Mr. Gopal C. Navandar
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CORAM : S. G. MEHARE, J.
DATE : 16-09-2022

PER COURT :-

1. Heard the learned counsel for the applicants, the learned A.P.P. for respondent No.1/State and the learned counsel for respondent No.2.
2. The prosecution has a case that the deceased was 19 years old at the time of the last incident. She was the Scheduled Caste. She had a love affair with accused Sachin. The parents of the deceased were well aware of her love affair with accused Sachin. They were explaining to her that he belongs to the higher caste and they belong to the Scheduled Caste, and she should not meet him. She was not listening. She was continuously in contact with the accused Sachin. It has also been alleged that on the day of the incident, the accused Sachin called her and took her to his home. Therefore, the parents of the deceased went to the house of accused Sachin. The complainant saw that the deceased had a vomiting sensation and vertigo. It has also been alleged that at

that time applicant Shobhabai was saying that the parents of the deceased belong to the Scheduled Caste. They are not equal to them. She could not be the daughter-in-law of their family. The deceased was ailing severely. Hence, he took her to the hospital at Risod, District Washim. In the hospital, the deceased told the complainant and his son that the accused Sachin had taken her to his home. When she went to his home, the father of the accused Sachin and his mother i.e. present applicant Shobhabai and Ashwini, were saying that they belong to the Maratha community, how the girl from the scheduled caste would be accommodated in their family and they were opposing for their marriage. She also told them that if she troubled them, they would kill her and her relatives. She was saying that though she belongs to the Scheduled caste, she was ready to marry Sachin, but they did not listen. Then, she consumed rat-killing powder. Thereafter, she was taken to Shinde Hospital and on the next day, to Devale Hospital at Washim and lastly to Ozone Hospital at Akola, where she died on 13.07.2022.

3. The learned counsel for the applicants would submit that the false allegations have been levelled against the applicants that they have played an active role in the incident. The deceased had very much affection for Sachin. On the day of the incident, she directly came to their home, that time, they learnt that the accused Sachin and the deceased had a love affair. She suddenly

started insisting on accepting her in their home. Therefore, the applicants were confused. They never uttered any words against her caste. The applicants and the deceased were from the same village. Therefore, they were well aware of their caste.

4. The parents of the deceased were explaining to her that she would not be accepted by the family of the accused since they belong to the scheduled caste. The dispute was about accepting the deceased as a daughter-in-law in the family of the accused. The parents of the deceased also had an idea that the deceased would not be accepted by the family of the accused. It also reveals from the first information report that the parents of the deceased also were trying to explain to her not to meet accused Sachin, but she had decided to marry him anyhow. There are no allegations against the applicants that they have insulted the deceased on her caste and to lower her dignity. It is a common social trend in our society that marriages are performed within caste and religion. It is a fact that the deceased went to the house of applicants and insisted on accepting her as a daughter-in-law. Due to social restrictions, denying to accept her as daughter-in-law by applicants is natural. The prosecution has no evidence that any of the medical practitioner has recorded the history of assault. The Investigating Officer has produced the statement of Dr. Jitendra Narayan Shinde, who treated the deceased first time. His statement also does not reveal that the applicants have

committed overt-act causing the death of the deceased. The oral dying declaration before her father and brother also does not reveal the overt act on the part of the present applicants. Referring to the caste of the deceased appears to have been used in a normal course of the social transaction. No intention to insult the deceased on her caste can be gathered from the entire facts. There were no overt acts on the part of the applicants. The deceased herself consumed rat-killing powder and lost her life. Nothing is to be recovered from the applicants. Considering the allegations in toto, the Court is of the view that there is no *prima facie* material to attract the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In view of the facts of the case, the Court is of the view that this is a fit case for anticipatory bail. Hence, the following order:-

- i) The application is allowed.
- ii) In the event of arrest, applicants No. (1) Shobha w/o. Rameshwar Barade and (2) Ashwini w/o. Haridas Barade, be released on bail, on furnishing PB and SB of Rs.15,000/- each, with one solvent surety of like amount, in C.R. No.0162 of 2022, registered with Goregaon Police Station, District Hingoli, for the offences punishable under Sections 376(2)(n), 306, 341, 506 read with Section 34 of the Indian Penal Code, Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Sections 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

**(S. G. MEHARE)
JUDGE**