

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.1644 OF 2022
WITH APPLN/3557/2022 IN BA/1644/2022

GOKUL ASHOK SHELKE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicants : Mr. Prashant Giri
APP for Respondent/State : Mr. S. B. Narwade
Advocate for Complainant : Mr. Shirish M. Kamble
...

CORAM : S. G. MEHARE, J.

DATE : 18-10-2022

PER COURT :-

1. Heard the learned counsel for the applicants, the learned counsel for the respondent/State and the learned counsel for the complainant at length.

2. It is not in dispute that the applicants' family and the deceased had frequent quarrels. Both were lodging reports against each other. The deceased married 20 years ago. She was alleging that since last ten years the mother of applicant No.1 had the extra marital relations with her husband. Therefore, there used to be quarrels. When she was complaining about extra marital relations of her husband, he was beating her. He never took her side. There were number of reports against each other. It has also been alleged that one police personnel was supporting

the applicants and their family. He was interfering in the quarrel and every time, instead of registering the crime against the applicants and their family, he used to save them. The last incident happened on 24.08.2022. She did not get justice and police did not take the cognizance. Hence, she committed suicide on 01.09.2022 in the campus of Police Commissionerate, Aurangabad by pouring diesel on her person and setting herself ablaze.

3. The learned counsel for the applicants would submit that the applicants were not the relatives of the deceased, therefore, Section 498A of the Indian Penal Code ("IPC") would not attract. As far as Section 306 of the IPC is concerned, he would argue that both, the deceased and the applicants' family were quarreling for a long period and lodging reports against each other. The deceased had some suspicion of having extra marital relations of her husband with the mother of applicant No.1 and out of that suspicion, she was continuously quarreling with the family of the applicants. On suspicion, she harassed family of the applicants. The applicants never abetted the deceased to commit suicide nor aided to finish her life. On bare reading of the allegations and considering the past, it can not be said that the applicants have abetted to deceased to commit suicide. The applicants are behind bars for more than 45 days. The material investigation is over. Therefore, they may be released on bail.

4. The application has been strongly opposed by the learned A.P.P. for the respondent/State and the learned counsel for the complainant. They would point out that the series of the quarrels *prima facie* reveal the conduct of the applicants and their family to abet the deceased to commit suicide. Time and again, the deceased was crying on the extra marital relationship of her husband with the mother of the applicant No.1. Though the family of the applicants was committing serious offences, but police did not take the cognizance. Therefore, due to continuous harassment, as a last resort, she sought support from the Commissioner of Police, but he also did not take the cognizance. Therefore, she ablazed herself in his office campus. The offence is grave. Therefore, they may not be granted bail.

5. As discussed above, it is not in dispute that there were frequent quarrels between two families. The husband of the deceased was not with her. There were number of non cognizable cases registered against each other. That goes to show that both the deceased and the applicants' family were lodging reports against each other on many occasions. The evidence of abetment has to be assessed during the trial. *Prima facie* it appears that the applicants being not the relatives of the deceased, Section 498A of the IPC would not attract. Whether the continuous harassment as alleged by the applicants, is abetment to commit suicide, is also a

matter of appreciation of evidence on merit.

6. The purpose of the arrest of the applicants appears to have been completed. The material investigation is also over. Nothing appears to be recovered from them. Applicant No.1 is a young boy of 19 years old. Applicant No.2 is actually grinded in the quarrel of two women. No purpose would serve in keeping the applicants behind bars. Hence, the following order :-

- i) Application is allowed.
- ii) Applicant Nos. (1) Gokul s/o. Ashok Shelke and (2) Ashok Tukaram Shelke, be released on bail, on furnishing PB and SB of Rs.25,000/- each, with one solvent surety of the like amount, in C.R.No. 0150 of 2022 registered with Begumpura Police Station, Taluka and District Aurangabad, for the offences punishable under Sections 306, 323, 498A, 504 and 506 read with Section 34 of the Indian Penal Code, on the conditions; (a) they shall attend the police station on every Monday between 10.00 a.m. and 1.00 p.m. till filing of the chargesheet; and, (b) they shall not tamper with the prosecution witnesses.
- iii) Criminal Application No. 3557 of 2022 is allowed.

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

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