

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1323 OF 2021

SHIVSHANKAR S/O BIBHISHAN SHIVPURE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicants : Mr. T. M. Venjane
APP for Respondent-State : Mr. N. T. Bhagat
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 31-01-2022.

ORDER :

1. The applicants are apprehending their arrest in connection with Crime No.232 of 2021, registered at Kasar Shirshi Police Station, District Latur, for the offence punishable under Section 306, 323, 504, 498A read with 34 of the Indian Penal Code.
2. Heard learned Advocate Mr. T. M. Venjane for applicants and learned APP Mr. N. T. Bhagat for respondent-State.
3. It has been vehemently submitted on behalf of the applicants that the applicants are the brother-in-law and his wife of the deceased. Deceased Puja was the daughter of informant Vaijnath Vyankatrao Jadhav. Puja got married to brother of applicant No.1 about seven

years prior to the FIR. The allegations against the present applicants in the FIR is that they used to insist Puja that she should work in the field. She used to say that she has no knowledge about the work to be done in field. The applicants used to insult her and mentally torture her. Now the investigation is over and charge-sheet has been filed. Perusal of the statements of witnesses would show that they are repeating the same allegations against the present applicants. The post mortem report says that she committed suicide by hanging. Therefore, taking into consideration the role attributed to the applicants, their physical custody is not required. They are ready to abide by the terms of the bail.

4. Per contra, the learned APP strongly opposed the application and submitted that the applicants are the persons against whom allegations of mental harassment has been made which is definitely covered under Section 498A of the Indian Penal Code. So also their such harassment has led the deceased to commit suicide. Though the parents-in-law of deceased have been released on anticipatory bail, the applicants cannot claim parity as they are absconding since the date of the offence from the village.

5. Here, it is to be noted that the investigation appears to have

been completed and the charge-sheet is also filed on 08-12-2021. No doubt, contents of the FIR and the statements of the witnesses are showing that the applicants used to mentally harass the deceased. She has committed suicide by hanging. But since there was head injury also, provisional cause of death given by the Medical Officer is, "Death due to asphaxia following neck compression associated with head injury." However, it states further that final opinion will be given after receipt of reports. As on today the prosecution has not added Section 302 or 304B of Indian Penal Code. However, the charge-sheet itself shows that from 23-09-2021 the police were searching for the applicants. On that day itself the Investigating Officer had given letter to Talathi that property details should be given to the police so that the police can proceed with the procedure under Section 82 and 83 of the Code of Criminal Procedure. Husband appears to have been arrested. It is then also stated that the parents-in-law have been released on anticipatory bail, but then on 16-11-2021 statement of the Sarpanch of village Harijavalga where the applicants are residing has been recorded in which she has stated that the present applicants have fled away since about 09.00 a.m on 26-08-2021, and they have not returned yet. Similar statements of Deputy Sarpanch, President of

Tantamukti, Ex-Sarpanch who are resident of the same village, have been recorded on the same day. Thereafter, on 17-11-2021 reports have been given by various Bit Amaldar who had taken search of the present applicants. In spite of these documents, the applicants have not stated as to where they are residing at present. Though in their address to the petition they have given their address as Harijavalga where they are now residing as per the villagers, which shows that they have gone absconding. Taking into consideration the decision in, *Lavesh Vs. State (NCT of Delhi)*, reported in 2012 (8) SCC 730, the absconding accused cannot get the discretionary relief of anticipatory bail. Hence, the present application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-