

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 ANTICIPATORY BAIL APPLICATION NO.1419 OF 2021

PAPPU @ NIRANJAN BALASAHEB DALVI AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. H.D. Deshmukh and Mr. V.H. Dighe, Advocates for applicants

Mr. V.M. Kagne, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 28th JANUARY, 2022

PER COURT :

1 Present applicants are apprehending their arrest in connection with Crime No.561/2021 dated 12.10.2021 registered with Ahmednagar Taluka Police Station, Dist. Ahmednagar, for the offence punishable under Section 304-B, 302, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. V.H. Dighe for applicants and learned APP Mr. V.M. Kagne for the respondent.

3 It has been vehemently submitted on behalf of the applicants

that applicants are the brother-in-law and sister-in-law of the deceased. Deceased Yogita was the daughter of informant Devram Gavhane. She got married to the brother of the present applicant No.1 about three months prior to the First Information Report. It has been then contended that Yogita was harassed for the dowry, which is stated to have been promised and it is stated that the demand was to the extent of amount of Rs.5,00,000/-. It has been then stated that Yogita found dead on 12.10.2021 at Arangaon, Tq. & Dist. Ahmednagar. The present applicants have been made as accused Nos.4 and 5. In fact, they are residing since about one year prior to the incident at Pune and along with affidavit the applicants have produced on record registered Leave and Licence Agreement, to show that they have taken residential flat on Leave and Licence at Mundwa, Dist. Pune. The applicants have also produced the photographs to show that on the day of incident they were at Pune. It is taken from the CCTV footage of the petrol pump. Merely because the applicant No.1 is the brother of husband of deceased Yogita and applicant No.2 is the wife of applicant No.1, they have been roped. The investigation has been completed and charge sheet has been produced. The charge sheet does not state any active role of the applicants and, therefore, the physical custody of the applicants is not required. They have already been granted ad interim protection and they have abided by the terms of the bail.

4 Learned APP strongly opposed the application and submitted that the death has occurred within three months of marriage. The girl was aged 22 and the Postmortem report shows external injuries in the form of ligature mark and the cause of death that has been given is hanging. The death is under unnatural circumstances and as per the informant, there was demand of Rs.5,00,000/-. In fact, the dowry is stated to have been given by the informant, at the time of marriage, to the husband. When such anti social offence has been committed the applicants do not deserve any sympathy.

5 The First Information Report, which has been lodged by the father of the deceased, would show that the marriage had taken place about three months prior to the First Information Report dated 12.10.2021. It has been alleged that the present applicants were also residing at Arangaon along with co-accused i.e. husband and parents-in-laws of the deceased. It is then stated that deceased Yogita was harassed physically as well as mentally when the promised amount of Rs.5,00,000/- was not given. On 10.08.2021 it is stated that the girl had gone to her parental house and informed about the ill-treatment to the parents. It is then stated that the informant had received phone call from one Pappu Bhausahab Dalvi stating that the husband of Yogita has committed murder of Yogita and she has been taken to Anandrushi

Hospital at Ahmednagar. Thereafter, the informant along with his relatives went to hospital and could see the ligature mark.

6 The investigation is complete and charge sheet is filed. Prosecution has not come with statement that it is the murder i.e. homicidal death and, therefore, Section 302 of the Indian Penal Code has not been added. It can be seen from a general diary entry, copy of which has been produced before this Court, that earlier Section 302 of the Indian Penal Code was added, however, after the Postmortem Report was received, that Section has been deleted. The documents in the form of inquest panchnama and Postmortem report would show that the death is unnatural. However, as regards the present applicants are concerned, it is to be noted that omnibus allegations are made that along with the co-accused they were also demanding the amount. Statements of witnesses also do not state about any specific role. At this stage, note can be taken about the copy of the Leave and Licence Agreement, which is a registered document and also the fact that the present applicants have given their residential address as that of the same flat, of which the Leave and Licence Agreement has been produced. This Court, at this stage, cannot take note of any plea of *alibi* as the burden of such defence would be on the shoulders of the accused to prove. The physical custody of the applicants, is therefore, not required. It is also to be

noted that this Court had granted ad interim protection to the applicants by order dated 29.11.2021 and then it appears that they had appeared before the police and they were released on bail in pursuant to the order passed by this Court and thereafter the charge sheet has been filed. Therefore, opportunity to investigate as against the present applicants was also made available to the police and then the charge sheet has been filed. Under such circumstance, the interim protection that was granted earlier deserves to be confirmed.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicants vide order dated 29.11.2021, is hereby confirmed and made absolute. In other words, if the applicants are not formally arrested, in the event of arrest of applicants viz. **1) Pappu @ Niranjan Balasaheb Dalvi** and **2) Megha w/o Pappu @ Niranjan Dalvi**, in connection with Crime No.561/2021 dated 12.10.2021 registered with Ahmednagar Taluka Police Station, Dist. Ahmednagar, for the offence punishable under Section 304-B, 302, 504, 506 read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.20,000/- (Rupees Twenty Thousand only) each with one or more

sureties in the like amount.

3 The applicants shall not indulge in any criminal activity nor they should tamper with the prosecution evidence, in any manner.

4 They should cooperate with the investigation.

(Smt. Vibha Kankanwadi, J.)

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