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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO.1867 OF 2022

(1) Bhishmacharya s/o Navnath Shete,

(2) Satish s/o Navnath Shete

(3) Navnath s/o Laxman Shete

(4) Mangal @ Kamalbai w/o Navnath Shete ...Applicants

VERSUS

The State of Maharashtra ...Respondent

...

Advocate for Applicants : Mr. Solanke Shikrashna B.

APP for Respondent/State : Mr. S.B. Narwade

...

CORAM : S.G. MEHARE, J.

DATED : 30th NOVEMBER, 2022

PER COURT:-

1. Heard learned counsel for the applicants and learned APP for the State.
2. The deceased has committed the suicide in the house of the applicants after around four years of her marriage. Since the deceased committed suicide, the father lodged the report making allegations that at the time of marriage, the dowry of Rs.50,000/- was agreed; however, he paid Rs.30,000/- and promised to pay Rs.20,000/- within a short time. Since the remaining amount of Rs.20,000/- was not paid, all the applicants were ill-treating the deceased. Since the deceased could not tolerate the ill-treatments for

non-payment of the remaining dowry of Rs.20,000/-, she committed suicide. On that report, the present crime has been registered.

3. Learned counsel for the applicants would submit that there was no question to demand Rs.20,000/- towards dowry as it was not the contract. They have maintained the deceased well for four years. Within four years, there were no complaints about ill-treatment. The deceased was short tampered. The FIR itself discloses that ten days before the incident, the father-in-law of the deceased took her to her parents home as her grandfather was ill and brought her back on the same day. If really she had ill-treatment to such an extent, she would not come with the father-in-law. But the story has been cooked making the allegations that she made the complaints that she has been harassed for the dowry. He has also argued that considering the financial condition of the applicants, it was unexpected that they would harass and ill-treat the deceased for such a meagre amount of Rs.20,000/-. Applicant no.2, the brother-in-law is serving at another place; however, he never harassed and ill-treated the deceased for dowry or any other reason. On the contrary, he was taking care of two years child of the deceased. The report lodged against may be out of frustration. Not a single date of the alleged incidents has been mentioned. Since the complainant was well aware that the deceased was short tampered; hence, every time he was patching up and the applicants were respecting him and maintaining

the deceased. But due to her short tempered nature, she brought the applicants in problem. They are languishing in jail since 08.10.2022. Nothing is to be recovered from them.

4. Learned APP has strongly opposed the application. He would refer to the legal provisions relating to the presumptions of abetment to suicide and dowry death as provided under the provisions of law. He would also refer to the statement of the middle man who tried to patch up the dispute and the applicants admitted before him that henceforth, they would not ill-treat her. He has also argued that the offence is serious and grave. The investigation is yet not completed. Hence, the application be dismissed.

5. Perused the FIR and other papers produced by the learned APP. It appears that the deceased had committed suicide in wee hours in one of the rooms in the applicant's house. The FIR reveals that not a single date of the alleged incident has been given. However, it appears that ten days before the incident the father-in-law took her to meet her grandfather and brought her back. If really there would have been any ill-treatment or the husband disliked her, the father-in-law had no reason to take her to her parents home to meet her grandfather. Since the daughter committed suicide, a report might have been lodged making allegations of demand of dowry under frustration. It is nowhere the case that after the marriage, the applicants demanded dowry. On the contrary, the first informant

stated that he did not pay the remaining amount of dowry agreed during the marriage. Infact, the parents have committed the offence under the Dowry Prohibition Act. The another fact to be considered is that within four years of her marriage, there were no complaints against the applicants. The financial condition of the applicants appears sound. There may be some other reason that compelled the deceased to commit suicide. So far as the presumption is concerned, it is the matter of evidence. The presumptions are always rebuttable and the parties against whom the presumption lies, has the right to rebut. Nothing appears to be recovered from the applicants. Hence, it would be inappropriate to keep them behind the bar. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicants, (1) Bhishmacharya s/o Navnath Shete, (2) Satish S/o Navnath Shete, (3) Navnath s/o Laxman Shete and (4) Mangal @ Kamalbai w/o Navnath Shete, be released on bail on executing PB. and S.B. of Rs.50,000/- (Rupees fifty thousand) each with one surety in the like amount each in connection with Crime No.220 of 2022 registered at Shiradhon Police Station, District Osmanabad for the offence punishable under Sections 304-B, 498-A,

306, 323, 504 read with Section 34 of the Indian Penal Code, on the condition that they shall not tamper with the prosecution witnesses.

(S.G. MEHARE, J.)

Mujaheed//