

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

**ANTICIPATORY BAIL APPLICATION NO.1468 OF 2021**

SHANKAR S/O THAKU PAWAR  
VERSUS  
THE STATE OF MAHARASHTRA

...  
Mr. S. S. Thombre, Advocate for the applicant.  
Mr. A. M. Phule, APP for the respondent – State.

...  
**WITH**  
**CRIMINAL APPLICATION NO.3238 OF 2021**  
**IN ABA/1468/2021**

PANDIT THAVRA JADHAV  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER

...  
Mr. S. J. Salunke, Advocate for applicant.  
Mr. A. M. Phule, APP for the respondent No.1 – State.  
Mr. S. S. Thombre, Advocate for respondent No.2.

...  
**CORAM : SMT. VIBHA KANKANWADI, J.**

**DATE : 10.01.2022**

**ORDER :-**

. The applicant is apprehending his arrest in connection with Crime No.235 of 2021 registered with Majalgaon Rural Police Station, Dist. Beed for the offences punishable under Section 302 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. S. S. Thombre for the applicant and learned APP Mr. A. M. Phule for the respondent – State assisted by

learned Advocate Mr. S. J. Salunke for the original informant.

3. Perusal of the FIR would show that it is lodged by one Pandit Thavra Jadhav, who was the father of deceased Meena. Meena got married to Santosh Prabhakar Rathod in 2010. Two children were born to them. Present applicant is the brother of accused No.4 – Parubai i.e. mother-in-law of deceased. Accused No.3 – Balu Shankar Pawar is the brother-in-law of accused No.1 – Vilas Prabhakar Rathod and the accused No.1 is the brother-in-law of deceased. In the FIR itself, it is specifically stated that the parents-in-law of deceased and accused Nos.1 and 2 are residing separate since last 2-3 years prior to the FIR. However, there was a ration shop in the name of father of accused No.1. Accused No.1 was conducting the affairs of the said shop, but due to the intervention of the informant and other relatives, the said shop was given to the husband of the deceased for running. Informant says that after noticing that there was good income from the shop, accused No.1 started insisting the informant that the shop should be given to him. This proposal was resisted by the deceased and on that count, accused Nos.1 to 4 used to harass deceased Meena. The said dispute was resolved by the informant by calling meeting of respectable persons. On 09.09.2021, at night time, Meena had called father and disclosed that the accused had quarrel with her on the issue of shop. The informant

received phone calls from his son-in-law i.e. Santosh. He was informed that accused Nos.1 to 4 have come to the home. Thereafter, Santosh informed informant that he should come immediately, as Meena has consumed poisonous substance and he is taking her to hospital at Talkhed. Informant, his wife and others went to that hospital, where they could found that Meena was declared dead. After the last rites were performed, both the sons of the deceased told that accused Nos.1 to 4 visited their house. They had quarrel with deceased. She was assaulted. Accused No.4 opened the mouth of the victim. Accused No.1 brought insecticide and forcefully administered it to deceased.

4. Learned Advocate for the applicant submitted that the applicant has been falsely implicated. Name of the applicant is not mentioned in the FIR and during investigation, his name is added in the crime. The applicant is aged about 65 years old. There is no role or overt act on the part of the applicant as attributed in the FIR. Applicant is not having any concern with the day to day affairs of deceased Meena and Santosh. Only because the applicant is brother of accused No.4 Parubai, the name of the applicant was implicated as an accused. Therefore, the physical custody of the applicant is not required for the purpose of investigation. He deserves to be released on bail.

5. Per contra, learned APP well assisted by learned Advocate Mr. Salunke representing the original informant strongly opposes the application and submitted that during the investigation name of the applicant is disclosed. The investigation is still going on and, therefore, physical custody of the applicant is required for the purpose of investigation.

6. At the outset, perusal of the FIR itself would show that the physical custody of the applicant will not be necessary for the purpose of investigation, as whatever was to be recovered from the spot has already been recovered. In fact, the name of the applicant itself is not mentioned in the FIR. It is to be noted that the person, who could have gone for rescuing her was her husband. What has been stated by the informant is that on phone call, his son-in-law had informed him that deceased has consumed the insecticide. The incident had taken place on 10.09.2021, however, the statement of the husband has been taken on 02.10.2021. There is no explanation for the delay. Important point to be noted is that in his statement, he has stated that when the quarrel was going on between his mother, accused No.1 i.e. brother, accused No.2 and brother-in-law of accused No.1 with Meena, it started raining and, therefore, everybody went home. He also went home and fell asleep. He was awoken by his son on the count that Meena had fallen outside

the house and froth was oozing out of her mouth. Santosh went near her and found that the wife was near staircase and she was vomiting. There was insecticide bottle near her, however, he says that nobody was present near her. Now, it is to be noted that child witnesses aged 8 and 7 are giving statements against the accused persons. The final cause of death is reserved till chemical analysis as well as histopathological examination. Column No.17 shows that Meena had received CLW abrasion on toe and bruises on the thigh. It appears that only because the applicant is the brother of accused No.4 i.e. Parubai, who is the mother-in-law of deceased, his name is added in the crime. Taking into consideration the fact that the applicant is aged 65 years, his physical custody is not required for the purposes of investigation. Therefore, the applicant deserves to be released on bail. Hence, the following order :-

**ORDER**

- I) ABA No.1468 of 2021 stands allowed and disposed of.
- II) Criminal Application No.3238 of 2021 filed by the original informant seeking permission to assist learned APP stands allowed and disposed of.
- III) In the event of arrest of applicant – Shankar Thaku Pawar in connection with Crime No.235 of 2021 registered with Majalgaon Rural Police Station, Dist. Beed for the offences punishable under Section 302 read with 34 of Indian Penal Code,

he be released on P. R. Bond of Rs.30,000/- with two sureties of Rs.15,000/- each.

IV) He shall not tamper with the evidence of the prosecution in any manner.

V) He shall not indulge in any criminal activity.

**[SMT. VIBHA KANKANWADI, J.]**

scm