

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1512 OF 2021

1. Rajendra s/o Bhimrao Ghodke
 2. Vanmala w/o Rajendra Ghodke
- ... Applicants

Versus

The State of Maharashtra

... Respondent

...

Mr. P. P. More, Advocate for applicants.
Mr. V. M. Kagne, APP for the respondent – State.

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 21.02.2022

ORDER :-

1. Applicants are apprehending their arrest in connection with Crime No.361 of 2021 registered with Tuljapur Police Station, Dist. Osmanabad for the offence punishable under Section 306 read with Section 34 of Indian Penal Code.

2. Heard learned Advocate Mr. P. P. More for the applicants and learned APP Mr. V. M. Kagne for the respondent – State.

3. It has been vehemently submitted on behalf of the applicants that the applicants have no concern with the offence. They are innocent. As against the applicants, it is stated in the FIR that they had ill treated the

sister of the informant, who was the daughter-in-law of the applicants. There were no previous complaints by the deceased against them. The deceased has committed suicide and, therefore, question of custodial interrogation will not arise. The investigation is over and it allows us to infer that the physical custody of the applicants will not be required for the purpose of investigation.

4. Per contra, the learned APP strongly opposes the application and submitted that the charge-sheet has been filed under Section 299 of the Code of Criminal Procedure. That means, the applicants were absconding. An absconding accused cannot seek discretionary relief. They were making illegal demands to the deceased, who was their daughter-in-law and as she could not fulfill those demands, she was not left with the option, but to commit suicide. The marriage had taken place in April, 2021 and the deceased committed suicide on 22.10.2021. The postmortem report gives final opinion regarding the cause of death as cardio respiratory arrest due to asphyxia due to hanging. There is *prima facie* evidence against the applicants and, therefore, they do not deserve to be released on anticipatory bail.

5. Perusal of the FIR would show that it has been filed by the brother of the deceased. Informant Sunil Shilwant is the brother of deceased Priya, whose marriage was performed with the son of the present

applicants in April, 2021. It has been alleged that there was demand of dowry from the present applicants. Some part of the amount was paid during the marriage and rest of the amount was agreed to be given after the marriage. However, the present applicants as well as Priya's husband has impressed upon the parents of deceased that they would take remaining one lakh amount from the dowry on that day only i.e. before the date of promise. It is stated that on the count of demand of that amount, the present applicants as well as husband of the deceased used to harass Priya. Priya used to convey those facts to her parents as well as the informant. He was informed about 11.30 p.m. on 21.10.2021 that Priya should be taken by him to his house as her husband was insisting that she should bring the remaining amount of dowry. Thereafter, around 12.30 a.m., her husband told that Priya has committed suicide. No doubt, it is an unfortunate incident that the girl has committed suicide within few months of her marriage. The statements of witnesses also stated that there was demand from the applicants. Applicants as well as the their son harassed Priya. The question before us is whether the custodial interrogation of the applicants is required for the purpose of investigation. The statements of witnesses have been recorded. The statement of the informant has also been recorded under Section 164 of the Code of Criminal

Procedure. The postmortem report, as aforesaid, would show cause of death as cardio respiratory arrest due to asphyxia due to hanging. The alleged demand of dowry is yet to be proved and, therefore, whether the said suicide was on account of the alleged harassment and whether the applicants had in any way abetted the commission of the offence would depend upon the proof adduced by the prosecution. The applicants are having permanent place of abode. There appears to be no criminal antecedents as they had not been pointed out by the prosecution. They are aged 60 and 50 respectively and, therefore, by imposing conditions, their application deserves to be allowed. This Court had granted interim protection to the applicants on 14.12.2021. That order deserves to be confirmed. Hence, the following order :-

ORDER

- I) Application stands allowed.
- II) The ad-interim protection, granted by this Court earlier to the applicants vide order dated 14.12.2021, is hereby confirmed and made absolute. In other words, in the event of arrest of applicants viz., (i) Rajendra s/o Bhimrao Ghodke and (ii) Vanmala w/o Rajendra Ghodke in connection with Crime No.361 of 2021 registered with Tuljapur Police Station, Dist. Osmanabad for the offences punishable under Section 306 read with Section 34 of Indian Penal Code, they be released on P R. Bond of Rs.20,000/- each with one or two sureties in the like amount.

- III) Applicant No.1 shall attend the concerned Police Station on every Monday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet and cooperate with the investigation.
- IV) Applicants shall not tamper with the evidence of the prosecution in any manner.
- V) They shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI, J.]

scm