

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 ANTICIPATORY BAIL APPLICATION NO.1625 OF 2021

SUDHAKAR KISANRAO WADHAVE AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. D.M. Shinde, Advocate for applicants

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

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 23rd FEBRUARY, 2022

ORDER :

1 Present application has been filed by the applicants who are apprehending their arrest in connection with Crime No.320/2021 dated 19.11.2021 registered with Kalamnuri Police Station, Dist. Hingoli, for the offence punishable under Section 304-B read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. D.M. Shinde for applicants and learned APP Mr. V.M. Kagne for the respondent. In order to cut short, it can be said that they have argued in support of their respective contentions.

3 The applicant No.2 is sister-in-law of deceased and applicant No.1 is husband of sister-in-law of deceased. The informant Ganesh Sakharam Lemle is the maternal uncle of Prajawati, who is the daughter of his sister Nilawati. Prajawati got married to Pravin in 2017. According to him, she was treated properly by her husband and his relatives for about 7-8 months. Thereafter, they used to harass her physically as well as mentally. They started demanding amount of Rs.2,00,000/- for purchase of truck. For insisting that demand they used to assault her, starve her and abuse her. Prajawati used to disclose the said fact to the informant and her mother, whenever she used to meet them. Prajawati's husband i.e. Pravin used to assault her under the influence of liquor for persuading demand of Rs.2,00,000/-. In 2018 when the informant had gone to meet her at matrimonial home, she told that her husband is beating her daily under the influence of liquor and making demand of the amount. Informant had given words of understanding and returned. On 18.11.2021 Pravin gave phone call to the wife of informant and told that Prajawati has fell down in the well and expired. All of them went to the spot and found the dead body of Prajawati and then he has lodged report on 19.11.2021.

4 It is to be noted that police have not invoked offence under Section 498-A of the Indian Penal Code uptill now and the offence is

registered only under Section 304-B read with Section 34 of the Indian Penal Code. Perusal of the police papers would show that this Court had granted interim protection to the present applicants on 03.01.2022 and thereafter they were arrested nominally on 06.01.2022 and then the charge sheet has been filed on 15.01.2022. That means, investigation was complete prior to the filing of the present application and the physical custody of the applicants was not at all required. Perusal of the charge sheet would show that the Postmortem Report gives probable cause of death as - "Cardio-respiratory arrest due to drowning, however, viscera preserved. Final opinion reserved." From that, it can be inferred that nothing is required to be recovered from the present applicants. The First Information Report as well as the statements of witnesses state the alleged act of harassment as against the present applicants by way of omnibus statement. But it has been tried to be depicted that the present applicants used to instigate husband and parents-in-law of Prajawati for persuading the demand of amount of Rs.2,00,000/-. As aforesaid, at this stage, there is no invoking of offence under Section 498-A of the Indian Penal Code. Therefore, the interim protection granted earlier to the applicants deserves to be confirmed. Accordingly, it is confirmed.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicants vide order dated 03.01.2022, is hereby confirmed and made absolute. In other words, if the applicants are not formally arrested, in the event of arrest of the applicants viz. **1) Sudhakar Kisanrao Wadhav** and **2) Manisha w/o Sudhakar Wadhav**, in connection with Crime No.320/2021 dated 19.11.2021 registered with Kalamnuri Police Station, Dist. Hingoli, for the offence punishable under Section 304-B read with Section 34 of the Indian Penal Code, 1860, they be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) each with two solvent sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.

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.)