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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2407 OF 2022**

Vitthal Namdev Mule & Anr. Applicants.
V/s
The State of Maharashtra and Anr. Respondents.

**ALONGWITH
INTERIM APPLICATION NO.3051 OF 2022
(FOR INTERVENTION)
IN
ANTICIPATORY BAIL APPLICATION NO. 2407 OF 2022**

Ajay Namdev Kadam Applicant.

In the matter between

Vitthal Namdev Mule & Anr. Applicants.
V/s
The State of Maharashtra Respondent.

Mr. Anikent Nikam i/b Amit Icham for the Applicant in
ABA/2407/2022.

Ms. Geeta P. Mulekar, APP for the Respondent/State.

Mr. Jaydeep Mane for the Intervener.

CORAM: NITIN W. SAMBRE, J.

DATE: SEPTEMBER 22, 2022

P.C.:-

1] Heard.

2] For the reasons stated in the Interim Application for

intervention, same is allowed.

3] Complainant Ajay, brother of deceased Anjali alleged that Applicant/Accused alongwith co-accused has abetted/participated in commission of offence of murder of Anjali. Aforesaid allegations against accused persons are based on the marriage of Anjali with brother of Applicant No.2 Suvarna on 01/05/2016. Applicant No.1 is the husband of Suvarna. It is an admitted fact on record that both the Applicants are residing in the village adjoining to the village where Anjali was residing i.e. the village where complainant Ajay and Namdev father of the deceased were residing.

4] While trying to make out a case for grant of pre-arrest bail, Mr. Nikam, learned Counsel for the Applicants would urge that fact that both the Applicants are not residents of the village where deceased Anjali was residing can be borne out of the record. According to him, initially, offence punishable under Section 306 was registered which was later on converted into Section 302. He would urge that so as to establish participation of the Applicants in the offence in question but for circumstantial evidence, there is hardly any direct evidence available on record. From the statements of complainant Ajay, brother of deceased Anjali and father Namdev he would urge that chain of events which is relied on for establishing direct involvement of the Applicants in a serious offence has not been established.

5] While countering the aforesaid submissions, learned APP assisted by learned Counsel for the complainant would urge that death of Anjali within a period of 7 years from the date of marriage can be inferred. According to him, statements of Ajay, so also Mr. Namdev categorically implicate the Applicants as abettors of the offence. Learned APP would invite attention of this Court to the statement of Mr. Namdev wherein he has specifically mentioned that before he could reach the spot of incident, Applicant No.2- Suvarna was also present. As such, it is urged that chain of events viz statement of Mr. Namdev, discovery recorded under section 27 at the behest of co-accused Annapurna sufficiently implicates Applicants in the crime in question.

6] I have appreciated said submissions.

7] The entire case is based on circumstantial evidence. Namdev father of deceased has stated about presence of Applicant before he could reach to the spot of incidence. That by itself will not be an incriminating material against Applicant having regard to their place of residence and event occurred.

8] Statement of Namdev, father of deceased Anjali, so also brother Ajay, does not speak of direct involvement of the Applicants in the offence in question. The nature of abetment alleged cannot be inferred to mean that there is direct involvement of the Applicants in crime in question, particularly when it is an admitted fact that

Applicants were residing in adjoining village and were not joint in mess, to which this Court is required to be sensitive to. Confessional statement of Annapurna, mother-in-law of deceased Anjali, who is mother of Applicant No.2 recorded under Section 27 of the Evidence Act will not bind the present Applicants. As such, said evidence will be hardly of any significance for considering case of the prosecution against the Applicants. In this background, particularly having regard to the attributions against the Applicants of abetting the offence, case for grant of confirmation of ad-interim protection is made out.

9] Applicants in the event of their arrest in C.R. No. 279 of 2022 registered with Tembhurni Police Station, District Solapur for the offence punishable under Sections 302, 306, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, be released on bail on executing P.R. Bond of Rs 15000 /- each with one or more sureties in the like amount. Applicants shall neither influence the witnesses in any manner nor tamper with the evidence. Applicants shall attend the Investigating Officer of the concerned Police Station from 28th September, 2022 to 2nd October, 2022 between 10.00 A.M. and 12.00 Noon and thereafter as and when directed by the Investigating Officer.

10] Anticipatory Bail Application and Interim Application taken out therein for intervention both are disposed of.

(NITIN W. SAMBRE, J.)