

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.41 OF 2022

Piyush Mahendra Bohra Applicant
Versus
The State of Maharashtra & Anr. Respondents

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WITH

ANTICIPATORY BAIL APPLICATION NO.3029 OF 2021

Mahendra Bohra Applicant
Versus
The State of Maharashtra and another Respondents

.....

WITH

INTERIM APPLICATION NO.135 OF 2022

IN

ANTICIPATORY BAIL APPLICATION NO.41 OF 2022

.....

WITH

INTERIM APPLICATION NO.134 OF 2022

IN

ANTICIPATORY BAIL APPLICATION NO.3029 OF 2021

Ms. Vrinda Grover, Advocate a/w. Neeraj Yadav, Sunayana
Dhakkad, for the Applicants.

Smt. J.S. Lohokare, APP for the Respondent-State.

Mr. Dinesh Kothari, Advocate for the Intervenor.

CORAM : SARANG V. KOTWAL, J.

DATE : 13th JANUARY, 2022
[Through Video Conferencing]

P.C. :

1. Both these applications are decided by this common order as they arise out of the same offence.
2. Both the applicants are seeking anticipatory bail in connection with C.R.No.400/2021 dated 21.10.2021 registered at Manikpur Police Station, Mira-Bhayandar, Vasai-Virar, under Sections 498-A, 306, 323, 504 read with 34 of the Indian Penal Code. Subsequently, Section 304-B of IPC is added.
3. Heard Ms. Vrinda Grover, learned counsel for the applicants, Smt. J.S. Lohokare, learned APP for the State and Shri Dinesh Kothari, learned counsel for the Intervenor.
4. The FIR is lodged by the brother of the deceased. The deceased had got married with the applicant Piyush on 25.1.2019. The other applicant Mahendra is Piyush's father i.e. father-in-law of the deceased. The FIR mentions that after the marriage, for initial four months, there were no difficulties. Subsequently, the applicants and Piyush's mother started harassing her. It is mentioned in the FIR that Piyush

was not doing any work. He used to abuse and beat the deceased. The mother-in-law Tara used to frequently scold the deceased and used to harass her on petty issues, including the clothes which the deceased used to wear. It is alleged in the FIR that the deceased had undergone cesarean when she delivered her first child in March, 2020. Even then she was made to work in the house. The deceased was having physical discomfort because of the cesarean and yet she was made to do all the household work. The accused used to ignore her physical condition. On 22.8.2021, the deceased had visited the informant's house. She was dropped at Borivali railway station but the applicant Piyush did not pick her up and she was at the station alone for about an hour. On 16.10.2021, she committed suicide by hanging herself. On this basis, the FIR is lodged.

5. Learned counsel for the applicants invited my attention to the observations made by a co-ordinate bench of this Court (Coram: Nitin W. Sambre, J.) while granting anticipatory bail to the mother-in-law vide order dated

9.12.2021 passed in ABA No.2956/2021. It was observed in that order that since the very ingredients of Section 304-B or Section 306 of IPC could not be inferred to be satisfied, a case for bail is made out; and the mother-in-law was granted anticipatory bail.

6. Learned counsel for the applicants submitted that the same principles and the principle of parity apply as far as the present applicants are concerned and they also deserve the same treatment.

7. She further submitted that in the entire FIR there is not a single averment which would amount to the offence punishable under Section 304-B of IPC. Even otherwise there are no allegations that the deceased was driven to commit suicide.

8. Learned APP as well as learned counsel for the intervenor submitted that the deceased had died when she was in the house where all the accused, including both the applicants, were staying. Therefore, it was for the applicants to explain how she died. The circumstances are suspicious.

The death has occurred within seven years of marriage and, therefore, the presumption also arises. Both of them, therefore, opposed grant of any relief to the applicants.

9. I have considered these submissions. At this stage, there is no reason to disagree with the view taken by my predecessor when anticipatory bail was granted to the mother-in-law. The applicants' case is very similar. There are no differentiating features as far as the applicants' and mother-in-law's roles are concerned. Therefore, on the ground parity, both the applicants deserve protection of anticipatory bail. The allegations in the FIR do not clearly establish that the deceased was treated with such cruelty that she was left with no option but to commit suicide or that the offence under Section 304-B was made out.

10. In this view of the matter, at this stage, the applicants custodial interrogation is not necessary. They will have to co-operate with the investigation. However, if during the course of investigation some definite incriminating material is discovered against the applicants by the

investigating agency they can always prefer an application for cancellation of this order. At this stage, therefore, considering all these aspects, I am inclined to protect the applicants by way of anticipatory bail order.

11. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.400/2021 registered with Manikpur Police Station, Mira-Bhayandar, Vasai-Virar, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) The applicants shall attend the concerned police station as and when called and shall cooperate with the investigation.
- (iii) Both Anticipatory Bail Applications stand disposed of. In view of disposal of main applications, IA Nos.135/2022 & 134/2022 do not survive and same stand disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2022.01.14
16:39:02
+0530

(SARANG V. KOTWAL, J.)