

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1507 OF 2022**

Godabai Chandrakant Ejagar and Anr. ... Applicants
versus
The State of Maharashtra ... Respondent

Mr. Sachin H. Deokar, for Applicants.
Mr. P.H.Gaikwad, APP, for State.
Mr. M.S.Dhongade, PSI Phaltan Rural Police Station, present.

**CORAM: N.J.JAMADAR, J.
DATE : 24th JUNE, 2022**

P.C.

1. This is an Application for pre-arrest bail in connection with C.R.No.360 of 2022 registered with Phaltan Rural Police Station for the offences punishable under Sections 306, 304B, 498A, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2. The Applicant No.1 – Godabai Chandrakant Ejagar and the Applicant No.2 – Ashwini Yogesh Ejagar are the mother in law and the co-sister of Ujwala (the deceased), the sister of Laxman Shankar Bhusnar, the first informant. On 7th June, 2016, the marriage of the deceased was solemnized with Anil Chandrakant Ejagar, the son of Applicant No.1. After two years of the marriage, the first informant alleged, the Applicant Nos.1 and 2 and Mr. Chandrakant Ejagar, father in law and Mr. Yogesh Chandrakant Ejagar, brother in law of the deceased, started to harass the deceased on the count that adequate dowry was not given at the time of marriage and they were not

properly honoured during the marriage ceremony. The deceased had called the first informant in the month of October, 2021 and appraised him about the ill-treatment being meted out to her. The deceased and her children were brought to her parental home. At that time, the deceased had informed him that the Applicants and the co-accused were demanding a sum of Rs.1,00,000/- to purchase a new vehicle and to get released the ornaments of Applicant No.2, which were pledged. After few days, the deceased was taken back to her matrimonial home. The Applicants and the co-accused were requested not to ill-treat the deceased. For two months thereafter, the Applicants and the co-accused treated the deceased well. She was again subjected to harassment. On 22nd May, 2022, the deceased died by suicide. Hence, the first informant lodged the report.

3. On 8th June, 2022 while granting interim protection, this Court noted that a submission was made that the deceased was suffering from psychotic depression and had availed treatment

4. I have heard Mr.Deokar, learned Advocate for the Applicants and the learned APP for the State. I have also perused the investigation papers.

5. The learned Advocate for the Applicants submitted that the allegations of harassment and subjecting the deceased to cruelty are of general nature. In fact, the deceased was suffering from ailments and availed treatment both at her parental as well as matrimonial home. In the backdrop of the nature of the allegations and the

attendant circumstances, according to the learned Advocate for the Applicants, custodial interrogation is not at all warranted. Hence, the Applicants deserve to be released on bail in the event of their arrest.

6. The learned APP, on the other hand, submitted that there are specific allegations of demand and in the statement of the first informant recorded under Section 164 of the Code of Criminal Procedure, the first informant has specifically stated that a sum of Rs.50,000/- was paid to the co-accused Yuvraj and, later on, a sum of Rs.80,000/- was credited in the account of the deceased. At that time, the husband of the deceased had taken back the deceased by giving an assurance that they would reside separately from the accused. The deceased and her husband did reside separately for a while and, as the children were young, they again came back to reside with the Applicants and the co-accused in the matrimonial home of the deceased.

7. I have given anxious consideration to the aforesaid submissions. It is not in dispute that the deceased met an unnatural death within 7 years of her marriage. The crucial question, however, is of the existence of the material, prima facie, to show that the deceased was subjected to cruelty or harassment by any of the relatives of her husband for, or in connection with, any demand for dowry, and the role attributed to the Applicants, in that context.

8. From the perusal of the allegations in the FIR qua the Applicants, the allegations primarily revolve around alleged harassment for not honouring them

properly at the time of their marriage and not giving adequate dowry. These allegations are required to be construed in the backdrop of the attendant circumstances. Post marriage, the deceased was treated well for a period of two years. The cause for dispute between the family members also appears to have its genesis in the division of joint family properties. The first informant alleged that in the said partition, the husband of the deceased was not given an equitable share. For the said purpose, the Applicant and the co-accused allegedly asked the deceased to bring a sum of Rs.1,00,000/- from her parents. This unequal distribution of the joint family property is sought to be arrayed against the Applicants. The dispute over the said score, prima facie, does not fall within the ambit of the provisions contained in Section 498A and 304B of the Indian Penal Code.

9. The learned Advocate for the Applicants invited the attention of the Court to a prescription dated 6th December, 2021 given by Dr. Appasaheb Baglane, M.D. (Neuropsychotric) of Sai Hospital Beed, whereby medicines were prescribed for psychosis. Another certificate dated 1st June, 2022 issued by Dr. Dnyanesh Kharade, M.D. (Psychiatric), Pune, indicates that the deceased was under his treatment for psychotic depression from 10th March 2021 to 15th October, 2021.

10. The learned APP, on instructions, from the Investigating Officer fairly submitted that the deceased was undergoing treatment in respect of mental health issues.

11. In the light of the aforesaid circumstances, especially the nature of the accusation against the Applicants, their custodial interrogation does not seem to be warranted for an effective investigation. If the grievance of the deceased that the husband of the deceased was not given an equitable share in the partition and that caused stress to her is considered in juxtaposition with the ailments which the deceased was allegedly suffering from, the element of abetment to commit suicide becomes debatable. The Applicants have, thus, made out a prima facie case for exercise of discretion in their favour. Hence, the following order :

ORDER

- (i) The order dated 8th June, 2022 granting interim protection to the Applicants stands confirmed.
- (ii) The Applicants shall co-operate with the investigation.
- (iii) The Applicants shall attend Phaltan Rural Police Station on every alternate Sunday from 10.00 a.m. to 1.00 p.m. for a period of three months or till the filing of the chargesheet, whichever is earlier.
- (iv) The Applicants shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.
- (v) The Applicants shall regularly attend the proceedings before the jurisdictional Court.
- (vi) By way abundant caution, it is clarified that the observations

hereinabove are confined to the consideration of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant.

The Application stands disposed.

(N.J.JAMADAR, J.)