

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 2680 OF 2021

Raju @ Rajaram Vithoba Valkunde & anr. ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. Kuldeep Nikam, for the Applicant.

Mrs. M. R. Tidke, APP for the State.

CORAM: N. J. JAMADAR, J.

DATED : 14th JULY, 2022

ORDER:-

1. Heard the learned Counsel for the applicants and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.257/2021, registered with Bhigwan Police Station, Pune Rural, for the offences punishable under Sections 304-B, 498A read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

3. Smita (the deceased) was the daughter of Kisan Waghmode, the first informant. Her marriage was solemnized with Bapurao, the son of applicant nos.1 and 2, on 21st March, 2016. They were blessed with a daughter. In the year, 2017, the deceased and her husband Bapurao started to reside at

Bhigwan, where Bapurao was serving in an Educational Institution.

4. The first informant alleged that Bapurao raked up quarrels with the deceased as his salary was not adequate to meet their expenses. Bapurao allegedly demanded the deceased to bring money from her parents to meet the household expenses. Upon her failure to meet the said demand, Bapurao subjected her to harassment. In the year 2018, when the deceased visited the house of the first informant, she had allegedly narrated that her husband as well as the father and mother-in-law, the applicants herein, harassed her on the count that adequate dowry was not given at the time of her marriage and they were not properly honoured. They demanded her to bring a sum of Rs.1,00,000/- by way of dowry. The first informant claimed to have met Bapurao and the applicants and requested them not to ill-treat her. Subsequently, Bapurao demanded a sum of Rs.2,00,000/- to purchase a four-wheeler. The applicants also allegedly joined in the said demand and the consequent harassment. The first informant claimed to have paid a sum of Rs.50,000/- to Bapurao. In the month of September, 2021, Bapurao demanded a sum of Rs.5,000/- per month as his salary was not sufficient to meet the household

expenses. The first informant claimed to have paid a sum of Rs.5,000/- as well. As Bapurao subjected the deceased to harassment, on 30th October, 2021, the deceased died by suicide. Thereupon, the first informant lodged the report.

5. On 1st November, 2021, this Court was persuaded to grant interim pre-arrest bail noting that the applicants were residing separately from their son and daughter-in-law and that the financial position of the applicants was relatively sound.

6. I have heard the learned Counsel for the applicants and the learned APP for the State.

7. The learned Counsel for the applicants submitted that pursuant to the direction of this Court in the said interim order, the applicants reported to the police station. The investigation is complete. Post completion of investigation, charge-sheet has been lodged on 12th December, 2021. Bapurao, the husband of the deceased and the son of the applicants came to be arrested. Hence, at this juncture, the custodial interrogation of the applicants is not warranted.

8. The learned APP countered the submissions on behalf of the applicants. It was urged that the applicants are equally complicit in the offences punishable under Sections 498-A and 304-B of the Penal Code.

9. I have perused the allegations in the First Information Report (FIR) and the material on record. The first informant has asserted that the deceased and her husband Bapurao started to reside at Bhigwan, where Bapurao was employed, in the year 2017. It seems that within a year of the marriage, the son and daughter-in-law of the applicants started to reside separately from the applicants, who are the residents of Khudus, Taluka Malshiras, District Solapur.

10. If the tenor of the allegations in the FIR is considered in a proper perspective, *prima facie*, it appears that the thrust of the allegations is against Bapurao, the husband of the deceased. The prime reason for the alleged cruelty, to which the deceased was subjected to, was the demand of money by Bapurao to meet the expenses of livelihood as he was not getting adequate salary. This allegation constitutes the substratum of the prosecution version. Indeed, there are allegations that the applications also made unlawful demands. However, those allegations, *prima facie*, appear to be of general nature. Specific allegations with reference to time, place and context are primarily made against Bapurao, the husband of the deceased.

11. It is also imperative to note that the incidents which allegedly occurred in proximity to the death of deceased are also

primarily attributable to Bapurao, the co-accused. The allegations of demand and harassment consequent to failure to meet demand, proximate to the time of death of the deceased, *prima facie*, are relatable to the acts and conduct of the son of the applicants. This is required to be appreciated in the light of the fact that the deceased and Bapurao, the son of the applicants, were residing separately from the applicants since more than four years prior to the occurrence.

12. In the aforesaid view of the matter, since the investigation is complete for all intent and purpose and culminated in lodging of the charge-sheet and the interim protection is in operation since November, 2021, at this length of time, custodial interrogation of the applicants does not seem to be warranted. I am, therefore, persuaded to make the order of pre-arrest bail absolute.

13. Hence, the following order:

: O R D E R :

- (i) Application stands allowed.
- (ii) The order of interim pre-arrest bail dated 1st November, 2021, is made absolute on the terms and conditions incorporated therein.

(iii) In addition;

(a) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(b) The applicants shall regularly attend the proceedings before the jurisdictional Court.

[N. J. JAMADAR, J.]